BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

KERN HIGH SCHOOL DISTRICT,
KERN COUNTY SUPERINTENDENT OF SCHOOLS AND
BLANTON EDUCATION CENTER

OAH CASE NUMBER 2023030389

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

April 3, 2023

On March 9, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Kern High School District, Kern County Superintendent of Schools, and Blanton Education Center. On March 24, 2023, Blanton Education Center filed a Notice of Insufficiency as to the complaint.

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing

unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. Opn.]; *Escambia County Bd. Of Educ. V. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. Opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. Of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. Opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. Of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

Student alleged two issues in the complaint. In Issue one, Student alleged he currently attends school at Blanton Education Center. Student's Issue One alleges Blanton Education Center and Kern County Superintendent of Schools denied Student a free appropriate public education by failing to hold an individualized education program team meeting to determine Student's eligibility for special education and related services. The facts alleged in Student's complaint are sufficient as to Issue One. Student's complaint identifies the issue and adequate facts about the problem to permit Blanton Education Center to respond and participate in a resolution session and mediation. Whether Blanton Education Center is a responsible local educational agency is not an appropriate issue for a notice of insufficiency but instead is more properly addressed under a Motion to Dismiss. Likewise, whether Issue One is premature is a defense to the allegation, not a basis for insufficiency. Student's complaint alleges a sufficient factual basis to place Blanton Education Center on notice of Student's claims in Issue One.

Student's Issue Two alleges Kern High School District, referred to as District in Student's complaint, failed in its child find duties and failed to assess Student. Issue Two makes no allegations against Blanton Education Center, is not subject to Blanton Education Center's Notice of Insufficiency.

Therefore, Student's statement of the two is sufficient.

A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint is sufficiently defined. Student has met the statutorily required standard regarding proposed resolutions.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Judith Pasewark

Judith Pasewark

Administrative Law Judge

Office of Administrative Hearings