BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BURBANK UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024120930

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

JANUARY 6, 2025

On December 24, 2025, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Burbank Unified School District, called Burbank. On January 3, 2025, Burbank timely filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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 46540-46541, 46699.)

DISCUSSION

Student's complaint includes a sole issue regarding the implementation of Student's one-to-one aide service. Student asserts that his aide has been changed several times, without notice or Parental input. Student seeks as a remedy to continue with his current aide or with a specific previous aide he worked with in a previous school year.

Burbank asserts that Student's complaint is insufficient because the complaint does not relate to a denial of a free appropriate public education, called a FAPE. Burbank also asserts that the staffing changes at the heart of Student's complaint are within Burbank's discretion and do not implicate the Individuals with Disabilities Education Act, called the IDEA.

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issue and adequate facts about the problem to permit Burbank to respond and participate in a resolution session, mediation, and due process hearing. Student's complaint addresses a dispute regarding the implementation of a one-to-one aide service, which is a dispute regarding Burbank's provision of FAPE to Student. Moreover, Burbank has demonstrated "an awareness and understanding of the issues forming the basis of the complaint" by raising affirmative defenses regarding the underlying merits of Student's complaint.

Burbank's second argument regarding its discretion to assign or change staffing is not a matter properly addressed through a Notice of Insufficiency. Rather, Burbank

appears to seek a determination on the merits of Student's complaint equivalent to that of a Motion for Summary Judgment. There is no summary judgment process for special education due process proceedings, and determinations of the merits of any complaint are only made in a decision following a due process hearing. (See 20 U.S.C. § 1415(f)(3)(E)(i).) Nevertheless, nothing about this Order prevents Burbank from raising this argument as an affirmative defense at the due process hearing.

Burbank also asserts that Student's proposed resolutions are insufficiently pled. 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 resolutions stated in Student's complaint are well-defined. Burbank may raise any affirmative defenses related to Student's proposed resolutions that it asserted in its Notice of Insufficiency at the due process hearing. Student has met the statutorily required standard regarding proposed resolutions. Overall, Student's complaint is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All currently scheduled dates in this matter are confirmed.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings