BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025090479

CORRECTED ORDER DETERMINING NON-EXPEDITED CLAIMS PARTIALLY SUFFICIENT AND PARTIALLY INSUFFICIENT; ORDER DISMISSING ISSUES 5, 6, 7 AND 21 FOR LACK OF JURISDICTION

SEPTEMBER 25, 2025

On September 12, 2025, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Cupertino Union School District, called Cupertino. On September 19, 2025, Cupertino filed a notice of insufficiency as to the complaint.

An individualized education program is called IEP. A free appropriate public education is called a FAPE.

BACKGROUND

Student filed five expedited due process complaints with OAH naming Cupertino starting in April 2025. The cases were designated by OAH as case numbers:

- 2025040244 (dismissed on April 11, 2025);
- 2025041265 (expedited hearing held beginning May 28, 2025, and decision issued on June 27, 2025);
- 2025060187 (dismissed by OAH on July 7, 2025, based on a failure to prosecute);
- 2025080032 (dismissed by OAH on September 5, 2025, based on Student's failure to file an amended complaint; and
- 2025090479 (current complaint).

Student filed the current complaint on September 12, 2025. The 26-page complaint alleges 25 issues. The issues and relevant time periods are almost identical to those plead in Student's previously filed due process complaints, except for the addition of some new related claims and revised dates. Student's complaint replicates numerous issues that OAH previously determined to be insufficiently pled in OAH case numbers 2025041265 and 2025080032.

As discussed below, the non-expedited claims identified as Issues 8, 12, 13, 14, 15, 17, 20 and 24 are insufficiently pled for many of the same reasons stated in the orders finding non-expedited claims insufficient in OAH case numbers 2025041265 (order determining due process complaint partially sufficient issued on May 27, 2025), and 202508032 (order determining non-expedited claim insufficient; and dismissing issues 2 and 5 for lack of jurisdiction issued on August 18, 2025). The complaint also contains issues outside OAH's jurisdiction, specifically Issues 5, 6, 7 and 21. Parents are

encouraged to seek mediator assistance should they choose to amend this complaint as to the non-expedited claims pursuant to this Order.

NOTICE OF INSUFFICIENCY

Cupertino alleges Issues 1-17, 19-21, and 24 in Student's complaint are insufficient. Cupertino did not challenge the sufficiency of Issues 18, 22, 23, and 25. These issues are therefore deemed sufficient.

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, at *4 [nonpub. opn.]; 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 discretion of the ALJ. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 Fed. Reg. 46698.)

ISSUES 1, 2, 3, AND 4 ARE EXPEDITED AND ARE NOT SUBJECT TO A NOTICE OF INSUFFICIENCY

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. For example, an expedited hearing can be requested to appeal a disciplinary change of placement, such as placement in an alternative education setting or the results of a manifestation determination regarding whether a child's misconduct had a direct and substantial relation to a student's disability. 20 United States Code section 1415(k)(3) requires an expedited hearing start within 20 school days from the hearing request. There is no provision for expedited hearings under section 1415(k) to test the complaint's sufficiency, as there is insufficient time to complete the notice of insufficiency process in expedited hearings.

Issues 1, 2, 3 and 4 of the complaint allege violations of title 20 United States Code section 1415(k), and 34 Code of Federal Regulations section 300.530. Therefore, the notice of insufficiency is denied as to Issues 1, 2, 3 and 4, and the expedited hearing will proceed as scheduled on these issues.

ISSUES 5, 6, 7 AND 21 ARE OUTSIDE OAH'S JURISDICTION

In Issues 5, 6, 7 and 21, Student seeks determinations that Cupertino violated Education Code sections 48900, 46120 and 8482.6, respectively. These statutes are not within OAH's jurisdiction. California Education Code section 48900 is a statute that governs the suspension or expulsion of general education students. Similarly, Education Code section 49120 establishes the Expanded Learning Opportunities program and section 8482.6 refers to family fee requirements for a district's After School Education and Safety Program. As enforcement of these statutes do not fall within OAH's jurisdiction, these claims are dismissed.

ISSUES 9, 10, 11, 16, AND 19 ARE SUFFICIENTLY PLED

In Issue 9, Student alleges Cupertino failed to assess him in all areas of suspected disability to determine eligibility for special education and related services between August 14, 2024, and September 12, 2025. As pled, the complaint provides sufficient information, including a specific time frame, for Cupertino to investigate Student's claim he should have been assessed for special education eligibility. Issue 9 contains adequate facts about the problem to permit Cupertino to respond and participate in a resolution session and mediation and prepare for hearing.

In Issue 10, Student asserts Cupertino denied him a FAPE by failing to offer an [IEP] that was reasonably calculated to enable the Student to make progress appropriate in light of his circumstances between August 14, 2024, and September 12, 2025. Issue 10 contains adequate facts about the problem, including a specific time frame, to permit Cupertino to investigate if an IEP was developed during this period and to participate in a resolution session and mediation and prepare for hearing.

In Issue 11, Student asserts Cupertino denied him a FAPE by failing to offer an appropriate educational placement between August 14, 2024, and September 12, 2025. Issue 11 contains adequate facts about the problem, including a specific time frame, to permit Cupertino to investigate if an IEP was developed during this period and to participate in a resolution session and mediation and prepare for hearing.

In Issue 16, Student asserts Cupertino denied him a FAPE by failing to implement goals, and failed to report on goal progress between August 14, 2024, and September 12, 2025. Issue 16 contains adequate facts about the problem, including a specific time frame, to permit Cupertino to investigate if an IEP was developed during this period and to review if Student's progress on goals was reported. This issue is sufficiently pled for Cupertino to participate in a resolution session and mediation and prepare for hearing.

In Issue 19, Student alleges Cupertino denied him a FAPE by discontinuing transportation services since November 19, 2024. Issue 19 contains adequate facts about the problem, including a specific time frame, to permit Cupertino to investigate if Student had an IEP during this period, if he was offered transportation services, and if those services were discontinued. Issue 19 is sufficiently pled for Cupertino to participate in a resolution session and mediation and prepare for hearing.

ISSUES 8, 12, 13, 14, 15, 17, 20, AND 24 ARE INSUFFICIENTLY PLED

In Issue 8, Student asserts Cupertino denied him a FAPE between August 14, 2024, and September 12, 2025. The pleading of this issue is overly broad and lacks requisite factual allegations regarding how Student was denied a FAPE. It is essential for Student to plead facts demonstrating why he believes he was denied a FAPE. Issue 8 is insufficiently pled for Cupertino to participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency is granted as to Issue 8.

In Issue 12, Student alleges Cupertino denied him a FAPE by failing to offer appropriate services and supports for: a. social; b. emotional; c. behavioral; d. academic; e. transition; and f. safety. The complaint fails to allege the date or time frame of the alleged inappropriate IEP and therefore is overbroad. The complaint also fails to allege why the services offered were inappropriate or which services and supports Cupertino should have offered Student to meet his needs. These are necessary factual allegations about the problem to put Cupertino on notice of Student's specific claims and to respond and participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency granted as to Issue 12.

In Issue 13, Student alleges Cupertino significantly impeded Parents' opportunity to participate in an IEP. This issue fails to allege a time frame or specific IEP team meeting where Parents were denied the opportunity to participate. The complaint also fails to allege sufficient facts explaining how Parents were denied the opportunity to participate in Student's IEP. These are essential allegations as to Issue 13 to put Cupertino on notice of the specific claims Student is making. Therefore, the notice of insufficiency is granted as to Issue 13.

In Issue 14, Student alleges Cupertino significantly impeded Parents' opportunity to participate in the decision-making process regarding provision of a FAPE for Student by refusing Parents' requests for a trained health/behavioral aide to accompany Student at school. This issue fails for the same reasons stated in Issue 13. The complaint fails to allege the time frame or a specific IEP team meeting. It is unclear when Parent made this request or when the refusal occurred and by what means. These are necessary factual allegations about the problem to put Cupertino on notice of Student's specific claims and to respond and participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency granted as to Issue 14.

In Issue 15, Student alleges Cupertino denied him a FAPE by failing to consistently provide speech language, physical therapy, occupational therapy, 'SCIA,' behavior therapy and transportation services. The factual allegations regarding this issue do not include any dates of IEPs, or the time frames at issue. Student appears to be complaining about a failure to implement Student's IEP. However, Student does not identify the IEP at issue or the time frame in which each of these services were not implemented. These are necessary factual allegations about the problem to put Cupertino on notice of Student's specific claims and to respond and participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency is granted as to Issue 15.

In Issue 17, Student alleges Cupertino failed to hold an IEP team meeting within 30 days of Parents' request. The factual allegations regarding this issue do not include when Parents requested an IEP team meeting. These are necessary factual allegations about the problem to put Cupertino on notice of Student's specific claims and to respond and participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency is granted as to Issue 17.

In Issue 20, Student asserts Cupertino "violated revised federal regulations which supersede Education Code section 56346(f)." This allegation is vague and ambiguous. It is unclear what regulation Cupertino allegedly has violated, fails to allege facts stating how the regulation was violated or explain how Student was denied a FAPE. Therefore, the notice of insufficiency is granted as to Issue 20.

In Issue 24, Student contends Cupertino denied him a FAPE during the 2024-2025, and 2025-2026 school years by failing to provide timely prior written notice in response to Parents' requests to attend IEP team meetings virtually. This issue is overbroad and fails to states any facts or a specific time frame when Parents requested

to virtually attend IEP team meetings and were denied this opportunity. These are necessary factual allegations about the problem to put Cupertino on notice of Student's specific claims and to respond and participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency is granted as to Issue 24.

ORDER

1. Expedited Issues 1, 2, 3, and 4 of Student's complaint are not subject to a sufficiency determination. The expedited prehearing conference and hearing will proceed as currently scheduled as to Issues 1, 2, 3, and 4. Nothing in this order prohibits Cupertino from seeking clarification as to the expedited issues at the expedited prehearing conference.
2. Issues 5, 6, 7, and 21 are dismissed for lack of OAH jurisdiction.
3. Issues 9, 10, 11, 16, and 19 are sufficiently pled sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
4. Issues 8, 12, 13, 14, 15, 17, 20, and 24 are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
5. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
6. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this Order. The filing of an amended complaint will restart the applicable timelines for a due process hearing. If an amended complaint as to the non-expedited claims is filed, OAH will issue a new scheduling order.

7. If Student fails to timely file an amended complaint, Student's non-expedited issues will proceed only as to Issues 9, 10, 11, 16, 18, 19, 22, 23, and 25.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings