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 2025080032

ORDER DETERMINING NON-EXPEDITED CLAIMS INSUFFICIENT; AND DISMISSING ISSUES 2 AND 5 FOR LACK OF JURISDICTION

AUGUST 18, 2025

On July 30, 2025, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Cupertino Union School District as respondent. On August 13, 2025, Cupertino filed a Notice of Insufficiency as to the complaint.

CLAIMS STATED IN CURRENT COMPLAINT

Student alleges the following claims in his July 30, 2025 complaint:

1. Has the District violated Title 20 United States Code section 1415(k), and 34 Code of Federal Regulations?
2. Has the District violated EdCode 48900 section (k) 92 (*sic.)* ?
3. Has the District violated Student's rights under Informal Suspension?
4. Has the District violated Title 20 United States Code section 1415(k), and 34 Code of Federal Regulations?
5. Has the District violated California *Education Code (EC)* (*sic)* Section 46120?
6. Has the District denied free appropriate public education?
7. Has the District failed the Student in all areas of suspected disability to determine eligibility for special education and related services?
8. Has the District failed to offer an individualized educational program that was reasonably calculated to enable the Student to make progress appropriate in light of his circumstances?
9. Has the District failed to offer an appropriate educational placement?
10. Has the District failed to offer appropriate services and supports for:
    a. social;
    b. emotional;
    c. behavioral;
    d. academic;
    e. transition; and
    f. safety
11. Has the District significantly impeded upon Parents' opportunity to participate in the decision-making process regarding provision of a FAPE for Student by refusing Parent's requests for a trained health/behavioral aide to accompany Student at school?

12. Has the District failed to consistently provide speech language, physical therapy, occupational therapy, "SCIA," behavior therapy and transportation services?
13. Has the District failed to implement goals, and thus also failed to report on any goal progress?
14. Has the District failed to ensure Parents' meaningful participation in the decision-making process?
15. Has the District failed to hold an IEP team meeting within 30 days of Parents' request?

Issues 1, 3, and 4, are expedited claims, subject to the expedited procedures mandated by the Individuals with Disabilities Education Act, or IDEA, in United States Code, title 20, section 1415(k)(1)(H)(4)(B). The remaining claims are non-expedited claims.

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).

SUFFICIENCY DETERMINATION PROCESS NOT APPLICABLE TO EXPEDITED CLAIMS

Cupertino asks that OAH "reconsider" its stance regarding the inapplicability of the Notice of Insufficiency process. Cupertino offers no legal support for its assertion that expedited claims should be subject to an sufficiency determination process.

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing under certain circumstances. Specifically, an expedited hearing can be requested to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. There is no provision, related to expedited hearings under section 1415(k), to test the complaint's sufficiency. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

The IDEA requires that a complaint that includes expedited claims be scheduled for hearing within 20 school days of the date the hearing is requested. (20 U.S.C. 1415(k)(1)(H)(4)(B).) By contrast, a local educational agency has 15 days after they receive a complaint to file a notice that the educational agency believes the complaint is insufficient. OAH then has another 5 days after receipt of the notice of insufficiency to issue a sufficiency determination. If the sufficiency determination process was allowed to be applied to expedited claims, OAH would be unable to complete the mandated expedited review of the claims related to disciplinary removals from an educational placement, or claims related to the process leading to such removals.

Cupertino has offered no legal authority allowing a sufficiency determination as to expedited claims. Therefore, no examination of the sufficiency of Student's issues 1, 3, and 4, will be conducted. Nothing in this order prevents Cupertino from seeking clarification of expedited issues at the expedited prehearing conference.

NON-EXPEDITED CLAIMS

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 party has the right to file a notice asserting a complaint is insufficient within 15 days of receiving a request for due process hearing. (20 U.S.C. § 1415 (c)(2)(C); Ed. Code § 56502, subd. ((d)(1).) 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.] 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 46541, 46699.)

ISSUES 2 AND 5 ARE OUTSIDE OAH JURISDICTION

In Issues 2 and 5, Student seek determinations of whether Cupertino violated Education Code sections 48900 and 46120, respectively. Neither of these statutes fall within OAH 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. These are not statues over which the OAH Special Education Division has jurisdiction. As enforcement of these statutes do not fall within OAH jurisdiction, these claims are dismissed.

ISSUES INSUFFICIENTLY PLED

Issue 6, which states, "Has the district denied free, appropriate public education" is insufficiently pled. A free, appropriate public education is often referred to as a FAPE. Each issue requires that facts pertinent to the issue be stated clearly. Cupertino is not expected to search through pages 16 to 32 of Student's complaint, and guess which factual claims pertain to which issue pled. Additionally, a review of the complaint reveals that the complaint does not allege that Student has a disability and is eligible for special education. While the complaint makes reference to a January 25, 2023 IEP, issue 6 fails to identify what IEP is at issue or how the district denied Student a FAPE. Issue 6 is insufficiently pled.

Issue 7, which states "Has the District failed the Student in all areas of suspected disability to determine eligibility for special education and related services," is also insufficiently pled. The time frame as to the issue is unclear, and no facts are stated as to which categories of eligibility Student alleges should have been found.

Issue 8, which states, "Has the District failed to offer an individualized educational program that was reasonably calculated to enable the Student to make progress appropriate in light of his circumstances," fails on the same bases as issue 6. It is essentially the same issue, worded slightly differently. Issue 8 is insufficient as it fails to clearly state the time frame and facts associated with the claimed denial of FAPE.

Issue 9, which states, "Has the District failed to offer an appropriate educational placement" also fails to clearly allege the facts pertaining to this issue, including the time frame Student is alleging the failure to offer an appropriate educational placement occurred.

Issue 10, which states, "Has the District failed to offer appropriate services and supports for: a) Social; b) Emotional; c) Behavioral; d) Academic; e) Transition; and f) Safety," fails to allege the time frame during which the services were not offered.

Issue 11, which states, "Has the District significantly impeded upon Parents' opportunity to participate in the decision-making process regarding provision of a FAPE for Student by refusing Parent's requests for a trained health/behavioral aide to accompany Student at school," also fails to allege the time frame or dates on which discussions or requests for a behavioral aide took place.

Issue 12, which states, "Has the District failed to consistently provide speech language, physical therapy, occupational therapy, SCIA, behavior therapy and transportation services, is insufficiently pled. The complaint fails to identify any IEPs offering such services or the period during which the listed services should have consistently been offered or provided.

Issue 13, which states, "Has the District failed to implement goals, and thus also failed to report on any goal progress," is insufficient because there are no facts pled with

the issue that indicate which specific IEP's goals the District failed to implement and when they were not implemented.

Issue 14, which states, "Has the District failed to ensure Parents' meaningful participation in the decision-making process," is insufficient because, again, no facts are clearly stated identifying when or how parents were denied a meaningful opportunity to participate in the decision-making process or which IEP parents were denied the opportunity to contribute to.

Issue 15, which states, "Has the District failed to hold an IEP team meeting within 30 days of Parents' request," is also insufficient because there is no information with the issue statement identifying when Parents made a request for an IEP team meeting that District then failed to hold.

Cupertino is entitled to notice of the claims asserted against it. It is not Cupertino's burden to sift through sixteen pages of sometimes difficult to follow prose, to try to figure out what claims Student is asserting and which alleged facts pertain to each claim. Student needs to state an issue and then state the facts that support his claims regarding that issue. Those facts should include a date or date range of when the IDEA, or California special education violations Student is alleging, occurred, Student must then also state the facts describing the alleged violation. This, or another equally clear pattern of Student's statement of the issues and the pertinent facts, is expected for each claim.

MEDIATOR ASSISTANCE WITH ISSUES AVAILABLE FOR NON-REPRESENTED PARENTS

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a

complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Expedited issues number 1, 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 on issues 1, 3, and 4. Nothing in this order prohibits Cupertino from seeking clarification as to the expedited issues at the expedited PHC.
2. Issues number 2 and 5 are dismissed for lack of OAH jurisdiction.
3. Issues 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
4. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). All dates related to the non-expedited portion of this case are vacated.
5. The amended complaint shall comply with the requirements of title 20 U.S.C. 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.
6. If Student fails to file a timely amended complaint, Student's non-expedited

case will be dismissed, as issues 6 through 15 are the only remaining non-expedited Issues in Student's complaint.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings