BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT AND

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022070379

# ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AS TO PALO ALTO UNIFIED SCHOOL DISTRICT

JULY 27, 2022

On July 13, 2022, 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 San Jose Unified School District and Palo Alto Unified School District. On July 26, 2022, Palo Alto 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 party has the right to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (Wyner v. Manhattan Beach Unified Sch. Dist. (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to the public agency involved in any decisions regarding a pupil. (Ed. Code, § 56501, subd. (a).) A public agency is defined as a school district, county office of education, special education local plan area, or any other public agency providing special education or related services to individuals with exceptional needs. (Ed. Code, §§ 56500 and 56028.5.)

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, and 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.)

Here, Student alleges that he resides within the San Jose Unified School District, which has developed an IEP for Student offering a type of program it allegedly does not have for the 2022-2023 school year. Student alleges he filed for an interdistrict transfer to attend a program in Palo Alto during the 2022-2023 school year, which interdistrict transfer was granted and subsequently revoked during the 2021-2022 school year. Student alleges that Palo Alto "assumed jurisdictional responsibility" for Student's special education program upon granting the interdistrict transfer for the following year and denied him a FAPE when it was revoked. Student's due process complaint as to Palo Alto challenges the revocation of the interdistrict transfer.

Student's complaint is insufficient as to Palo Alto. On the facts alleged in the complaint, Palo Alto has not provided special education or related services to Student, so does not meet the definition of a public agency involved in any decision regarding Student over which OAH has jurisdiction. Also, Student's complaint alleges wrongful revocation of an interdistrict transfer, pursuant to Education Code section 48204, subdivision (b)(2), which is not a matter relating to the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to Student, and over which OAH has no jurisdiction.

Accordingly, the complaint fails to provide Palo Alto with the required problem description and the facts relating to the problem, to state a claim for due process.

## ORDER

1. Student's complaint is insufficiently pled as to Palo Alto under section title 20 United States Code 1415(c)(2)(D).
2. Student is permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and must be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed as to Palo Alto.
5. All dates previously set in this matter are confirmed as to San Jose Unified School District.

IT IS SO ORDERED.

*Alexa Hohensee*

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings