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 2025041265

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY INSUFFICIENT

MAY 27, 2025

Cupertino Union School District, called Cupertino, filed a Notice of Insufficiency, called the NOI, on May 13, 2025, regarding all of Student's 13 alleged issues. The NOI argued each of the 13 alleged issues are overbroad and vague, as to time and other essential details, making it impossible for Cupertino to understand Student's issues. Student responded to the NOI in his expedited prehearing conference statement filed on May 14, 2025. Student contends Cupertino is well aware of the facts regarding the disputes between the parties and it misrepresents Student's allegations in its NOI.

An expedited prehearing conference, called a PHC, took place in this case on May 19, 2025. At that PHC the Administrative Law Judge, called the ALJ, verbally granted this

NOI as to issues three through thirteen. This written Order memorializes the ALJ's verbal ruling on Cupertino's NOI at the PHC. At the May 19, 2025 expedited PHC the ALJ also verbally partially granted Cupertino's motion to dismiss by dismissing Student's issue 1 as being outside of OAH's jurisdiction. Therefore, the NOI was moot as to issue one and the sufficiency of the pleading of issue one is not addressed in this Order.

APPLICABLE LAW

Cupertino, as the named respondent in this case, has 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.)

ISSUE TWO IS EXPEDITED AND IS 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 Student's disability. 20 United States Code section 1415(k)(3) requires an expedited hearing start within 20 school days from the filing of the child's request for a hearing. There is no provision under section 1415(k) to test an expedited complaint's sufficiency. Therefore, the NOI as to Issue two is denied, and the expedited hearing will proceed as scheduled on Issue two.

THE PLEADING OF ISSUES THREE THROUGH THIRTEEN IS INSUFFICIENT

Issue three in Student's complaint asks: "Has the District violated California Education Code (EC) section 46120?" This statute concerns after school programs. However, the complaint fails to allege sufficient facts regarding why and when Student

was allegedly prohibited from attending one hour a day of the after school program. The complaint refers to Cupertino's decision to prevent Student from attending the entire after school program (and two other classes) as an expulsion, but does not explain what Student conduct led Cupertino to expel him from a portion of the after school program or why Cupertino prohibited Student from attending the after school program. The complaint fails to allege sufficient facts regarding relevant dates and other circumstances to give Cupertino adequate notice of issue three. Therefore, the NOI is granted as to Issue three.

Issue four in Student's complaint asks: "Has the District denied free appropriate public education?" The pleading of this issue is overly broad, and lacks requisite factual allegations regarding how and when Cupertino denied Student a free appropriate public education, referred to as a FAPE. It is essential for Student to plead facts demonstrating he was entitled to a FAPE, and specifically what Cupertino did to deny him a FAPE and when that alleged denial occurred. Therefore, the NOI is granted as to Issue four.

Issue five in Student's complaint asks: "Has the District failed the Student in all areas of suspected disability to determine eligibility for special education and related services?" The foregoing question does not make sense, but it appears to concern a failure to assess Student in certain areas of suspected disability. However, the complaint fails to allege what areas of suspected disability Cupertino should have assessed Student and when Cupertino failed to conduct those assessments. These are necessary factual allegations to describe the problem. Therefore, the NOI is granted as to Issue five.

Issue six in Student's complaint asks: "Has the District failed to offer an individualized education program that was reasonably calculated to enable the Student to make progress appropriate in light of circumstances?" However, the complaint fails to allege facts demonstrating Student was eligible for special education and entitled to

an individualized education program, called an IEP, and the applicable period of time. The complaint also fails to allege facts regarding why the offered IEP was not appropriate to meet Student's needs. These are necessary factual allegations about the problem to put Cupertino on notice of the specific claims Student is making. Therefore, the NOI is granted as to Issue six.

Issue seven in Student's complaint asks: "Has the District failed to offer an appropriate educational placement?" Issue seven appears to be repetitive of Issue six. The complaint fails to allege the date of the allegedly inappropriate IEP. The complaint also fails to allege facts explaining what placement was offered in the subject IEP, and why the placement offer made was not appropriate. These are necessary factual allegations about the problem to put Cupertino on notice of the specific claims Student is making. Therefore, the NOI is granted as to Issue seven.

Issue eight in Student's complaint asks: "Has the District failed 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 why the services offered were inappropriate or which services and supports Cupertino should have offered Student in order to meet his needs. It also fails to allege the date(s) of the IEP(s) Student is challenging in Issue 8, or an applicable period of time. These are necessary factual allegations about the problem to put Cupertino on notice of the specific claims Student is making. Therefore, the NOI is granted as to Issue eight.

Issue nine in Student's complaint asks: "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 request for a trained health/behavioral aide to accompany Student at school?" This issue fails to allege the time period or a specific IEP team meeting that this supposedly occurred. It is unclear

when Parent made this request or when the refusal occurred and by what means. The complaint also fails to allege sufficient facts to explain what is meant by a trained health/behavioral aide and why Student needed that aide service. These are essential allegations as to issue nine to put Cupertino on notice of the specific claims Student is making. Therefore, the NOI is granted as to Issue nine.

Issue ten in Student's complaint asks: "Has the District failed 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 IEP(s), or the time periods 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 period in which each of these services were not implemented. The dates of the IEPs which are the subject of this issue and the time period Student contends each of the services were not implemented are essential factual allegations. Therefore, the NOI is granted as to Issue ten.

Issue eleven in Student's complaint asks: "Has the District failed to implement goals, and thus also failed to report on any goal progress?" The factual allegations regarding this issue do not include any dates of IEP(s), or the time periods at issue. Also, there are not sufficient factual allegations regarding which goals were not implemented, tracked for progress, and on which goals progress reports were owed but were not provided to Parents. These are essential factual allegations about the problem to put Cupertino on notice of the specific claims Student is making. Therefore, the NOI is granted as to Issue eleven.

Issue twelve in Student's complaint asks: "Has the District failed to ensure Parents' meaningful participation in the decision making process?" This issue appears to be redundant of Issue nine. The pleading of Issue nine fails to allege any dates of IEP(s)

or the time periods at issue. Also, there are no factual allegations regarding how Cupertino impeded Parents' opportunity to participate in the decision-making process. These are essential factual allegations. Therefore, the NOI is granted as to Issue twelve.

Issue thirteen in Student's complaint asks: "Has the District 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 essential factual allegations. Therefore, the NOI is granted as to Issue thirteen.

CONCLUSION

Issues 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 in Student's complaint are insufficiently pled under section title 20 United States Code 1415(c)(2)(D) for the above reasons. The complaint fails to provide Cupertino with the required description of the problems and essential facts relating to the problems.

Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). 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 written order. If Student fails to file a timely amended complaint, Student's issues 3 through 13 will be dismissed.

ASSISTANCE 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. Issues numbered 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 in Student's complaint are each insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. 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 written order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter, except for the dates of the Expedited Hearing on Student's Issue two, are vacated.

IT IS SO ORDERED.

Christine Arden

Christine Arden
Administrative Law Judge
Office of Administrative Hearings