BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060322

# ORDER DETERMINING COMPLAINT INSUFFICIENT AS TO ISSUE TWO

JUNE 22, 2022

On June 6, 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 Los Angeles Unified School District as respondent. On June 21, 2022, Los Angeles Unified School District, called Los Angeles, 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) Los Angeles filed its notice of insufficiency on June 21, 2022. Thus, Los Angeles timely filed its notice of insufficiency.

Student's complaint alleges two issues. Los Angeles asserts that Student's complaint is insufficient because it fails to provide an adequate description of the problem related to the proposed initiation or change concerning the identification, evaluation, or education placement of the Student. Specifically, Los Angeles asserts that Student's complaint contains no particular facts and leaves it with no understanding of the allegations it is facing and no ability to adequately respond or prepare a defense in this matter.

Here, Student's complaint is sufficient as to issue one and insufficient as to issue two. Student's issue one states, "District failed to complete student's triennial evaluation. It was due June 4, 2020. [Student's] last triennial evaluations were completed in 2017. District has not reassessed him since. District is in violation of its obligation to reassess [Student] at least every three years. The violation significantly impeded [Student's] parents' participation in the development of [Student's] IEP, [Impeded] [sic] [Student's] access to FAPE and deprived [Student] of educational benefit." Student's issue one is sufficient as it gives facts related to the problem, including a timeframe, and Los Angeles' alleged failures related to assessments for it to understand the nature of the allegation and to participate in a resolution session, mediation, and due process hearing.

Student's issue two states, "At all times relevant to this complaint, District has failed to provide FAPE for this student. District's failure to provide FAPE to [Student] is a

violation of 20 U.S.C. §§1401 and 1412(a)(1)(A), 34 C.F.R. §§300.17 and 300.101, and Cal. Educ. Code §§56000 and 56040" Student's issue two is insufficient. A review of Student's complaint reveals that no facts are pled related to Student's issue two. It is also overbroad, and vague as to time. Without any facts related to Los Angeles failing to provide a free appropriate public education, it is unclear what specific acts or failures are attributable to Los Angeles, or if this is redundant of Student's issue one.

For these reasons, Student's issue two fails to state sufficient facts that give Los Angeles an awareness and understanding of the issue such that it can be used to prepare for a resolution session, mediation, and due process hearing. Accordingly, Student's issue two is insufficiently pled.

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. Student's issue one in Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Student's issue two in Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. The amended complaint shall 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.

4. If Student fails to file a timely amended complaint, the hearing will proceed only as to Student's issue number one.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings