BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

KERN HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2025090625

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

OCTOBER 16, 2025

On September 12, 2025, Grandparent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Kern High School District. Subsequent to filing the complaint, on September 26, 2025, Student filed an Assignment of Educational Rights to his grandparent pursuant to California Education Code section 56041.5.

On October 14, 2025, Kern High School District filed this Notice of Insufficiency as to Student's 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).)

The proof of service of Student's complaint indicates that Grandparent attempted to personally serve the Kern High School District Superintendent on September 12, 2025, by leaving a copy of the complaint with an unknown secretary or security personnel at the Kern High School District office. No other or alternative attempts were made to serve the complaint on Kern High School District.

On September 23, 2025, Kern High's Director of Special Education, Jennifer Anderson, filed a declaration with OAH indicating that she only became aware of Student's complaint upon receiving a case number and scheduling order from OAH. After searching for a copy of Student's complaint, Anderson found no record of Student's complaint having been served or submitted to Kern High School District.

Kern High School District filed a separate motion on September 23, 2025, to dismiss Student's complaint or in the alternative to reset the hearing dates. On October 1, 2025, however, Kern High School District filed a Notice of Representation for Student's complaint, thereby making appearance and accepting service as of October 1, 2025, for purposes of this Order of Insufficiency, rendering Kern High School District's September 23, 2025 motion to dismiss moot.

Student's complaint having been deemed served as of October 1, 2025, Kern High School District's Notice of Insufficiency is timely and falls within the statutory 15-day notice requirement.

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 [nonpub. opn.]; but 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 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.)

Student's complaint alleges three insufficiently pled claims. It is noted concurrent with the filing of his complaint, Student filed an additional four pages of "issues" specifically directed to the Superintendent, which were sent to the Kern High School District office on August 28, 2025, prior to the filing of Student's complaint. These separate allegations do not provide clarity to Student's complaint or establish additional issues as part of Student's complaint.

Student's Issue One contends that in 2022, Student was awarded compensatory hours from Buena Vista Junior High School which were taken away from him when he attended an independent school.

Issue One fails to describe r how Kern High School District is responsible for the actions of Buena Vista Junior High School. Student has not described when Kern High School District agreed to provide compensatory services, and what services were not provided.

Issue One fails to identify any individualized education program or describe any denial of a free appropriate public education, for which Kern High School District was responsible. Therefore, Issue One is insufficient.

Student's Issue Two contends that on October 15, 2024, Student was seriously injured in an automobile accident and was unable to attend school for eight months and fell behind in his school credits.

Issue Two provides a statement of Student's injury but does not provide any information regarding a violation of special education law. The statement appears to be a factual allegation made in support of Student's Issue Three. As an independent claim, Issue Two is insufficient.

Issue Three is unintelligible beyond a claim that the home/hospital or home study program offered by Kern High School District was insufficient to meet Student's needs.

Issue Three is intermingled with undecipherable statements which fail to describe if the home/hospital program was part of an individualized education program, called IEP, and if so which one. Further, Student failed to include essential facts like the terms of the disputed IEP or program, whether it was implemented, and why it was insufficient to meet Student's educational needs. Therefore, Issue Three is insufficient.

In sum, the complaint fails to provide Kern High School District with the required problem description and the facts relating to the problem.

MEDIATOR 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. Student's complaint is insufficiently pled under title 20 United States Code section 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 United States Code section 1415(b)(7)(A)(ii), and shall 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.

5. All dates previously set in this matter are vacated.

Judith Pasewark

Judith Pasewark

Administrative Law Judge

Office of Administrative Hearings