BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MODESTO CITY SCHOOLS.

OAH CASE NUMBER 2026010865

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

APRIL 14, 2026

On April 8, 2026, Student filed a fourth amended due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Modesto City Schools, called Modesto. On April 9, 2026, Modesto filed a notice of insufficiency as to the fourth amended complaint.

Student filed three previous due process hearing requests that were deemed insufficient.

An individualized education program is called an IEP. A free appropriate public education is called FAPE.

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).)

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 FAPE;
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.)

ISSUES ONE AND TWO ARE SUFFICIENTLY PLED

Modesto argues Student's fourth amended complaint is insufficient because it provides vague assertions, general conclusions, and fails to include sufficient description of the nature of the alleged problems. Modesto further argues the complaint lacks sufficient facts and fails to identify specific dates to provide it an awareness and understanding of the basis of the complaint.

OAH's March 18, and April 6, 2026 orders determining the second and third amended complaints insufficient advised Parents that the addition of an eight-page, 15-section supplemental document titled Amended Complaint in addition to OAH's form complaint caused confusion. OAH's April 6, 2026 order determining third amended due process complaint insufficient instructed Parents to allege all issues for hearing in a single document, and to specify the timeframe for the issues alleged, the date of Student's IEPs, and specific facts related to each issue.

The facts alleged in Issues two and three of Student's complaint are sufficient. Student's fourth amended complaint consists of one document written on OAH's due

process complaint form. The complaint includes three issues. Issue one challenges the failure to provide consistent access to Student's augmentative and alternative communication device from September 2024 through the current 2025-2026 school year. Issue one further alleges Modesto failed to document Student's skills loss and regression in IEPs dated October 8, 2024, May 7, and 23, 2025, August 8, 2025, and September 6, 2026, and reported inaccurate data in IEPs dated March 10, 2025, May 7, 2025, October 6, 2025, and December 2025. The complaint further alleges those IEPs did not include goals or skills for Student to access his augmentative and alternative communication device.

Issue two alleges Modesto failed to timely assess Student in all areas of suspected disability, including behavior, augmentative and alternative communication, audiology, occupational therapy, neuropsychological, and academic functioning. Issue two refers to IEPs dated October 2024, April 20, 2025, May 27, 2025, August 8, 2025, October 6, 2025, and December 2025. It can be reasonably inferred from Student's complaint that the failure to assess occurred during the period prior to these IEPs, or the 2024-2025 and 2025-2026 school years. Issue two further alleges that Modesto failed to provide a necessary one-to-one aide in May 2025 and behavior supervision leading to a head injury.

Issues two and three in Student's fourth amended complaint identify the issues and adequate facts about the problems to permit Modesto to respond and participate in a resolution session, mediation, and due process hearing. Additionally, Student's issues may be clarified at the prehearing conference. (*J.W. v. Fresno Unified Sch. Dist*. (9th Cir. 2010) 626 F.3d 431, 442-443, and *Ford v. Long Beach Unified Sch. Dist.* (9th Cir. 2002) 291 F.3d 1086, 1090.) As pled, Issues one and two are sufficient.

ISSUE THREE IS INSUFFICIENTLY PLED

Issue three alleges Modesto placed Student at Beard Elementary in September 2024, and did not regularly provide Student her augmentative and alternative device. Issue three further alleges Student experienced regression, injury, emotional distress, a "bus/police incident" and emotional harm during the 2024-2025 and 2025-2026 school years, and references IEPs dated October 2024, April 20, 2025, May 27, 2025, August 8, 2025, October 6, 2025, and December 2025. Issue three fails to provide Modesto with the required notice or description of the problem and facts relating to the problem. For example, Student alleges she experienced regression, but it is unclear when this occurred, in what areas Student regressed, whether Parents expressed these concerns at an IEP team meeting, and the date of the meeting or meetings. Student's reference to a "bus/police" incident lacks specificity as to the incident, when it occurred, and how it relates to Modesto's obligation to provide Student FAPE. Student's reference to multiple IEPs is overbroad and confusing. For example, it is unclear if Student is claiming Modesto did not offer sufficient services, and in which areas, or if she is alleging Modesto did not implement Student's IEPs, and if so, which services and during which time period. As pled, Issue three is insufficiently pled for Modesto to participate in a resolution session and mediation and prepare for hearing. Therefore, the notice of insufficiency is granted as to Issue three.

OAH's April 6, 2026 order determining third amended due process complaint insufficient advised Parents that continuing to submit insufficiently pled complaints is an abuse of judicial resources and appointed a mediator to assist in drafting a single, sufficiently pled complaint. Parent's fourth amended complaint included all issues in a single complete document, with a clearly identified section for Issues, and included some specificity for the school years and challenged IEPs. However, Issue three remains

insufficiently pled as discussed above. As stated in OAH's April 6, 2026 order determining third amended due process complaint insufficient, OAH would dismiss Student's complaint if it filed another insufficiently pled complaint. Student has had four opportunities to file a sufficiently pled complaint. Issue three continues to be insufficiently pled, and is therefore dismissed.

ORDER

1. Issues one and two are sufficiently pled under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issue three is insufficiently pled under title 20 United States Code section 1415(c)(2)(D), and is hereby dismissed. Student cannot file a fifth amended complaint.
3. This matter shall proceed only as to Issues one and two in the fourth amended complaint.
4. All dates in this matter are confirmed.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings