

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015020031

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On January 30, 2015, Student filed a Due Process Hearing Request¹ (complaint) naming Davis Joint Unified School District. The complaint alleged that Student exhibited maladaptive behaviors that District had failed to address appropriately; that District had repeatedly removed Student from her educational placement due to her behaviors; and that Student has had manifestation determination meetings resulting in no appropriate or effective changes to her services. Student stated four issues in the complaint. Issue One alleged that District had failed to appropriately assess Student. Issue Two alleged that Student's behavior plan was not appropriate, and that manifestation meetings had failed to result in appropriate changes to her educational program. Issue Three alleged that Student had failed to make educational progress within the past two years. Issue Four alleged that District had violated Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and state civil rights laws.²

On February 13, 2015, District filed a Notice of Insufficiency arguing that the allegations in the complaint were not specific enough, and did not adequately identify the individualized educational programs at issue.

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

² District has moved to dismiss Issue Four as outside the jurisdiction of the Office of Administrative Hearings. That motion will be addressed by a separate Order.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.³ 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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.⁴ 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.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ 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.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁸

³ 20 U.S.C. § 1415(b) & (c).

⁴ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁸ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing to appeal a decision regarding a disciplinary change of placement, such as placement in an alternative educational setting, or a manifestation determination regarding student's conduct. This section requires an expedited hearing to occur within 20 school days of the date the hearing is requested and for a decision to be rendered within 10 school days of the conclusion of the hearing. With respect to expedited hearing requests, there is no provision similar to that in title 20 United States Code section 1415(c)(2), allowing for the testing of the sufficiency of an expedited hearing request.

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. The complaint provides extensive factual background regarding Student's behavioral challenges, states the dates of IEP's within the past two years, and alleges that Student's educational program and behavioral interventions over the two years prior to the filing of the complaint have not been appropriate to address Student's unique needs. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's statement of the claims is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: February 18, 2015

/s/
JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings