

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2018070979

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On July 23, 2018, Student filed a Due Process Hearing Request¹ (complaint) naming Corona-Norco Unified School District. On July 31, 2018, Corona-Norco timely filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 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 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. (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

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

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.)

DISCUSSION

Corona-Norco contends that Student insufficiently pled his sole issue for denial of a free appropriate public education because he has not specified either a time frame for the denial or dates of specific individualized education programs at issue; has not provided specific facts about problems with Student's placement or program; and has not identified specific procedural or substantive FAPE claims.

Student's complaint alleges facts sufficient to put Corona-Norco on notice of the issues forming the basis of the complaint. Student's complaint identifies a sole issue for hearing, namely, that Corona-Norco denied him a FAPE by failing to provide an appropriate placement and program. Within the context of that issue, Student alleges he struggled in school since the 2009-2010 school year, making little progress; requested assessments for special education in writing on April 9, 2012, which Corona-Norco ignored; initiated a second written request for special education assessments on July 15, 2013; and, since being found eligible for special education through an August 13, 2013 IEP, received deficient IEPs from Corona-Norco.

Student's complaint alleges perceived deficiencies in several IEPs, each identified by date, since August 13, 2013, relating needs identified in assessments to insufficient placement, services, goals, and accommodations in areas including but not limited to academics, behavior, attention, work completion, organization, and social skills.

Moreover, Student's complaint addresses IDEA's two-year statute of limitations. Student specifically alleges that, since Parents were only "recently advised of their due process rights, the two-year statute of limitations must not apply in this matter." Such allegations put Corona-Norco on notice that Student seeks to reach beyond the two-year statute of limitations and Corona-Norco's alleged withholding of information statutorily required to be given Parents. Whether any of Student's claims are barred by the statute of limitations is a question of fact.

Student's complaint identifies the issues and adequate related facts about the problem to permit Corona-Norco to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of 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: August 06, 2018

DocuSigned by:


COLE DALTON
177-DEFB09ACC499...
Administrative Law Judge
Office of Administrative Hearings