

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT.

OAH Case No. 2018070988

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On July 23, 2018, Student filed a Due Process Hearing Request¹ (complaint) with the Office of Administrative Hearings naming Rocklin Unified School District. On August 1, 2018, Rocklin Unified School District filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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 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

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).

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

The facts alleged in Student's complaint are sufficient to put Rocklin Unified School District on notice of the issues forming the basis of the complaint. Student's complaint, at Issues A-I, identifies the issues and adequate related facts about the problem to permit Rocklin Unified School District to respond to the complaint and participate in a resolution session and mediation. Student's complaint alleges: he was not appropriately assessed for attention issues, behaviors and learning disabilities; Parents were denied meaningful participation in IEP and 504 meetings; Rocklin Unified School District predetermined the results of those meetings; Rocklin Unified School District failed in its child-find obligations; Rocklin Unified School District failed to provide prior written notice concerning its assessment determinations; and Rocklin Unified School District failed to provide appropriate placement and services to address Student's behavioral, attention and academic challenges. These allegations are sufficient to provide the required notice of a description of the problem and the facts relating to the problem. Rocklin Unified School District argues that the facts do not support the allegations, in that IEP meetings did not in fact occur. The occurrence or non-occurrence of IEP meetings cannot be adjudicated via this Notice of Insufficiency. Facts must be adjudicated at hearing.

Rocklin Unified School District also argues that, to the extent Student makes claims for violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), these are outside OAH jurisdiction. This Notice of Insufficiency is not the appropriate vehicle to dismiss claims that are outside OAH jurisdiction, and is without prejudice to an appropriate motion to dismiss those claims.

With respect to Issue J, Student alleges that Rocklin Unified School District "knowingly participate[d] in a campaign to bully, harass and discredit Student." Student states background facts concerning the alleged actions and statements by a named ROTC Colonel. The complaint identified the issues and adequate related facts about the problem to permit Rocklin Unified School District to respond to the complaint and participate in a resolution session and mediation.

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 6, 2018

DocuSigned by:


JUNE LEHRMAN
Administrative Law Judge
Office of Administrative Hearings