

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWHALL SCHOOL DISTRICT AND
LOS ANGELES COUNTY OFFICE OF
EDUCATION.

OAH Case No. 2018070925

ORDER DETERMINING
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On July 20, 2018, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Newhall School District. On August 10, 2018, OAH granted Student's Motion to Amend the Due Process Complaint (amended complaint) seeking to add additional issues and to name an additional party, the Los Angeles County Office of Education.

On August 15, 2018, Los Angeles filed a notice of insufficiency as to Student's complaint. Los Angeles' notice of insufficiency claimed that Student's amended complaint failed to state any cause of action, allegation, or proposed resolution against it, and only mentioned Los Angeles in one paragraph of the amended complaint without any connection to any of the named issues. Because of this, Los Angeles alleged that the amended complaint is insufficient.

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 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

Student’s amended complaint was deemed filed by OAH on August 10, 2018. Los Angeles filed the notice of insufficiency on August 15, 2018. Thus, Los Angeles’ notice of insufficiency was timely filed.

Student’s amended complaint named Los Angeles as a respondent in the caption, and identified it further in paragraph 12 in the section entitled “Arguments.”

Student sets forth three issues in the case. Student alleged Student was denied a FAPE based on: (1) the failure to offer an appropriate placement at the February 7, 2018, IEP; (2) the failure to make a specific placement offer at the June 7, 2018, IEP; and (3) the failure to hold an IEP team meeting pursuant to the June 6, 2018, court release order.

The facts alleged in Student’s amended complaint are sufficient to put respondents on notice of the issues forming the basis of the amended complaint. Los Angeles argues that because the issues are not particular to it, the complaint is insufficient, which is not the case. Student’s amended complaint identifies the issues and adequate related facts about the problem, although not specifically directed at Los Angeles. However, the information stated in the amended complaint provides “an awareness and understanding of the issues forming the basis of the complaint.” The IDEA requires only a “description of the nature of the problem, “ facts related to the problem and proposed resolutions to the extent known and available at the time (20 U.S.C. (b)(7)(A)(ii), a requirement liberally construed in light of the remedial and informal nature of the due process proceedings. Thus, Student’s amended complaint is sufficient.

If Los Angeles is attempting to argue that the issues themselves have no connection to Los Angeles, a notice of insufficiency is not the appropriate vehicle to raise that contention. Nothing in this order precludes Los Angeles from filing a motion to be dismissed in this matter.

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 16, 2018

DocuSigned by:
Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings