

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANAHEIM UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2018080788

ORDER FINDING DUE PROCESS
COMPLAINT SUFFICIENT

On August 14, 2018, Student filed a due process hearing request¹ (complaint) with the Office of Administrative Hearings naming Anaheim Union High School District. On August 20, 2018, Anaheim Union 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

The facts alleged in Student's complaint are sufficient to put Anaheim Union on notice of the issues forming the basis of the complaint. Student alleges that he enrolled in Anaheim Union on or around November 1, 2016 with an individualized educational program from a prior school district and doctors' orders providing for home hospital services. Student's first claim alleges that Parent asked Anaheim Union to hold an IEP team meeting and that Anaheim Union did not do so. Student seeks as a resolution that Anaheim Union should hold an IEP team meeting. In claim two, Student alleges that Anaheim Union failed to offer Student modifications and accommodations to access the general curriculum, and seeks to have the requested modifications and accommodations included in Student's IEP. Claim three alleges that Parents requested a change in placement for Student on August 2, 2017, and District refused to respond to Parents' request. Student seeks a change in placement. Claim four alleges that Mother appointed Stepfather to act as Student's advocate, but Anaheim Union has refused to allow Stepfather to participate as an advocate for Student, and Student seeks an order that Stepfather be permitted to act in that capacity. At claim five, Student alleges that Parents requested records from Anaheim Union, but Anaheim Union has not produced those records. Student seeks to have the records produced for Parents' review. Claim six alleges that Student was assessed by a clinical psychologist, but Anaheim Union failed to adopt the psychologist's findings or provide the services recommended by the psychologist. Student seeks to have the psychologist's recommendations adopted and implemented, including provision of an augmented and alternative communication device that was denied Student from November 1, 2018 through June 5, 2018. At claim seven, Student alleges that Parents filed a complaint seeking changes in Student's home hospital program, but Anaheim Union failed to respond, and Student seeks the services sought in that complaint, as detailed in the current complaint. Claim eight alleges that Parent on behalf of Student sought to register Student with Anaheim Union for the 2018-2019 school year, and District refused. As a resolution, Student seeks enrollment and a free appropriate public education for the 2018-2019 school year.

Student's complaint identifies the issues and adequate related facts about the problem to permit Anaheim Union 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: August 30, 2018

DocuSigned by:

Alexa Hohensee

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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings