

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SIMI VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2018080614

ORDER OF DETERMINATION OF
INSUFFICIENCY OF DUE PROCESS
COMPLAINT

On August 14, 2018, Student filed a due process hearing Request¹ (complaint) with the Office of Administrative Hearings naming Simi Valley Unified School District. On August 29, 2018, Simi Valley 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,

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).

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 complaint recites facts but states no identifiable legal claims. His second paragraph states that "At no time in the past 2 years ha[s] [Simi Valley]'s offered program met [Student's] individual and unique needs This failure to meet Elisa's educational needs has caused [Student] a loss of educational opportunity and denied him an appropriate educational program and services." Following this is a section titled "Legal Standard and Jurisdiction." Contained in it are recitations of the law, and summary statements claiming that Student was not provided with a program to meet his needs. In the final paragraph of this section is a statement that "Here [Simi Valley] ha[s] committed several procedural and substantive violations, each of which has denied [Student] educational benefit" Then follows a section titled "Educational History." However, the only date recited when an individualized education program team meeting took place is the initial one, October 18, 2012. Student, to the extent that can be determined, is asking for relief for actions or inaction of Simi Valley, but never tells the reader the manner in which Simi Valley committed substantive and procedural violations, and when specifically they occurred.

Student's complaint is deficient in that it does not identify the dates of the challenged IEP's, and why they were deficient. It does not indicate whether they failed to address his then-present academic achievement and functional performance needs. It does not indicate if the IEP's were deficient because goals did not identify and address all areas of Student's need, or if the goals themselves were deficient because they were not rigorous, not rigorous enough, not measurable, or defective in some other way. Student does not identify specific alleged procedural violations. It does not indicate if Simi Valley failed to implement Student's IEP's. Instead, Student includes various laws he claims are applicable to the case, and a variety of disjointed facts, some of which allege Simi Valley failings, and others which describe Student's alleged current state and how he has been harmed. But no judiciable claims are made.

Student has drafted his complaint in a manner that does not give Simi Valley sufficient information to prepare for a resolution session, mediation or hearing. The

complaint is insufficient. Should Student file another complaint he is urged to number each of his claims, state what the alleged violation is, and then state specific supporting facts as to that claim, and a proposed resolution.

Some of Student's proposed resolutions are requests for placements or services OAH cannot legally award. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) There is no requirement that the proposed resolutions be within the Administrative Law Judge's authority to order, should Student prevail. Therefore, Student did meet the statutorily required standard of stating a resolution to the extent known and available to him at the time. However, this does not render the complaint sufficient, and his proposed resolutions should be restated in his amended complaint, should he choose to file one.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).²
3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DATE: August 31, 2018

DocuSigned by:

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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

² The filing of an amended complaint will restart the applicable timelines for a due process hearing.