

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
  
PARENTS ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021060247

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE  
PROCESS COMPLAINT

JUNE 22, 2021

On June 4, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Garden Grove Unified School District. Garden Grove filed a Notice of Insufficiency after business hours on June 16, 2021, which is deemed to have been filed on June 17, 2021.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387.] A complaint is sufficient if it: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution 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, 1<sup>st</sup> Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1<sup>st</sup> 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.]; 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 raises three issues. Student's first issue is compound. Student asserts that Garden Grove denied Student a FAPE by predetermining its offer of placement in a special education preschool program for the 2019-2020 and 2020-2021 school years. Student's first issue also alleges that Garden Grove violated state and federal anti-discrimination statutes by placing Student in a segregated special education setting.

Student's second issue alleges that Garden Grove denied Student a FAPE during the 2019-2020 and 2020-2021 school years by failing to offer Student placement in the least restrictive environment. Likewise, Student's third issue alleges that Garden Grove's offer of placement for the upcoming 2021-2022 school year denies Student a FAPE by not offering her placement in the least restrictive environment.

Specifically, Student alleges that Garden Grove placed and seeks to place Student in a segregated, special day program when the least restrictive environment would have been a general education setting. The complaint further explains why Student believes that the general education setting would be most appropriate: that Student has modest IEP goals and no behavioral concerns. Student's complaint also specifies the school years at issue.

In its Notice of Insufficiency, Garden Grove presents a list of information that it argues should have been included in Student's complaint to make it sufficient. This is unpersuasive. This specific information is not required to overcome an NOI.

The facts alleged in Student's complaint are sufficient to put Garden Grove on notice as to the nature of the problems Student alleges. Student's complaint identifies the issues and adequate facts about the problem to permit Garden Grove to respond and participate in a resolution session and mediation. Therefore, Student's statements of Issues One, Two, and Three are 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.

IT IS SO ORDERED.

*Claire Yazigi*

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings