

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MORAGA SCHOOL DISTRICT.
OAH CASE NUMBER 2021080029

ORDER DETERMINING SUFFICIENCY OF
DUE PROCESS COMPLAINT

AUGUST 19, 2021

On August 2, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Moraga School District. On August 17, 2021, Moraga filed a Notice of Insufficiency as to the complaint.

Moraga asserts that Student's complaint is unclear due to the way the form is used. Moraga contends it is unable to tell which facts Student takes issue with and which are provided for background. Moraga also contends the form complaint does not clearly identify what the problem or complaint is and, therefore, does not sufficiently describe the nature of the problem. Moraga further asserts that the time frame at issue

is not clear because the facts of Complaint Number 1 include information for the 2018-2019 school year, which is beyond the 2-year statute of limitations.

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].) However, these minimal pleading standards must be met. A sufficiently pled due process hearing complaint includes a description of the nature of the problem that is related to the proposed initiation or change to the child's identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The due process hearing request must also include facts relating to the problem and a proposed resolution of the problem to the extent known to the party at the time of filing. (Ed. Code §56502(c)(1)(C) and (D); 20 U.S.C. § 1415 (b)(7)(B)(iii).) 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.) Student has met the applicable pleading requirements.

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; *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 46540, p. 46699.)

DISCUSSION

The facts alleged in Student’s complaint number 1 are sufficient as it identifies the issues and adequate facts about the problems to permit Moraga to respond and participate in a resolution session and mediation. Complaint number two, however, is not sufficient.

Student’s two stated “problems” consisting of “complaint number 1 and complaint number 2” included the following facts:

Student’s first issue alleges generally that during the 2018-2019 and 2019-2020 school years, Moraga failed to find Student eligible for special education and related services, which led parents to seek residential placement. This issue is sufficiently pled.

Student’s requested resolutions for complaint number 1 included reimbursement for emergency residential treatment during the 2019-2020 school year, beginning

November 15, 2019, to the beginning of the 2020-2021 school year, as well as travel, lodging, and related expenses for Student and Parents; and reimbursement for the cost of Dr. Hyken's assessment.

Student's complaint number 2 is unclear as to the issue or issues pled. A number of facts are pled regarding Student's transition from the residential treatment program but there is no clear statement of what issues are being asserted from the facts.

ORDER

1. Complaint number 1 is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Student's complaint number 2 is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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. Upon the timely filing of an amended complaint, the timelines will reset and a new scheduling order will be issued.

5. If Student fails to file a timely amended complaint, the complaint will proceed as currently scheduled on the sufficiently pled issue.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings