

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

BONITA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080198

ORDER FINDING COMPLAINT INSUFFICIENT

AUGUST 12, 2021

On August 04, 2021, adult Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Bonita Unified School District. On August 12, 2021, Bonita timely filed a notice of insufficiency as to the complaint.

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).

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, called a FAPE; (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 school district 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, and 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 alleges two insufficiently stated two-line claims. The claims cannot be understood because the problems are not described in complete sentences, there is no punctuation, and there are no dates stating when the alleged actions or inactions by Bonita took place. The complaint fails to provide Bonita with the required problem description and the facts relating to the problem and how Bonita's actions denied Student a FAPE.

However, an adult student without an attorney may request that OAH provide a mediator to assist the student in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Student is encouraged to contact OAH for assistance if Student intends to amend Student's due process hearing request to move forward on the claims.

ORDER

1. Student's complaint is insufficiently stated under section title 20 United States Code 1415(c)(2)(D).
2. Student will be allowed to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), as described above, and must 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, the file will be closed, and no further action will be taken on Student's claims.
5. The prehearing conference and due process hearing dates set in this matter are vacated, and will not be held.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings