

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

VALLEY OAKS CHARTER SCHOOL.
OAH CASE NUMBER 2021080318

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE
PROCESS COMPLAINT

AUGUST 24, 2021

On August 11, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Valley Oaks Charter School. On August 23, 2021, Valley Oaks 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; (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, 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. (*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

Valley Oaks asserts that Student's complaint is insufficiently pled. Valley Oaks contends that issue one is vague because although it lists assessments that were inadequately done, Student failed to describe the nature of the alleged inadequacies of the assessments. Valley Oaks also claims that issue one fails to clearly describe how the inadequate assessments prevented Student's family's meaningful participation in the individualized education program, called IEP, process. Valley Oaks alleges issue two is insufficient because it correctly states that Student's parents did not consent to the implementation of the 2019 IEP, but fails to state that parents consented to the May 2021 IEP. Valley Oak contends issue three does not provide notice as to what or which Student's needs were not met during the 2019-2020 and 2020-2021 school years. Valley Oaks argues Student's proposed resolutions demonstrate vagueness and a general lack of accurate facts described in the complaint.

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Valley Oaks to respond and participate in a resolution session and mediation.

Issue one alleges Valley Oaks' failure to adequately assess Student within the last two years deprived them a free appropriate public education, called FAPE. Student further asserts Valley Oaks should have assessed Student in health, emotionally related mental health, speech and language, functional behavior analysis, auditory processing, and conducted psycho-educational evaluations, including social and emotional functioning, by a neuro-psychologist. Issue two states Valley Oaks' failure to file for due process deprived Student of FAPE. Student contends parents did not consent to implementation of Valley Oaks' offer of FAPE presented at the January 15, 2019 and September 10, 2019 IEP team meetings. Issue three alleges that Student was denied a

FAPE during the 2019-2020 and 2020-2021 school years because Valley Oaks did not address their concerns. Student states that three IEP team meetings were held and the IEP offers made that the meetings were defective because they were based upon inadequate assessments. Student also claims the goals, services, and placements contained in the IEPs were not adequate to address Student's needs in speech, language, social interaction, fear, anxiety, self-esteem, and auditory processing. Student explains the proposed resolutions are the subject of expert opinion and ongoing analysis and assessments, which have not been completed.

Student's statement of the three claims is sufficient. Student's complaint describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a FAPE.

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).) The proposed resolution stated in Student's complaint is not well-defined. However, Student has met the statutorily required standard regarding proposed resolutions.

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.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings