

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

BONITA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080486

ORDER FINDING COMPLAINT INSUFFICIENT

AUGUST 30, 2021

On August 16, 2021, 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 27, 2021, Bonita 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. Board 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 alleges three claims, which cannot be understood. The problems are not described in complete sentences, there is minimal punctuation and it

does not help clarify the meaning, and there are no dates stating when the alleged actions or inactions by Bonita took place. One of Student's two attachments to the complaint, which are possibly statements of proposed remedies, states "Rescind diploma 2019," but Student's statement of the problems only mentions "school year 2019." This is not sufficient. In this third complaint filed within a month, Student provided more information than he did in the two prior complaints that were determined to be insufficient. However, Student's most recent complaint still 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.

Student previously filed insufficiently pleaded complaints in OAH Case Numbers 2021080133 and 2021080198. In both cases, the Orders finding the complaints insufficient informed Student of the availability of a mediator to assist him in preparing an amended complaint that would satisfy the legal requirements described above. Student may contact the case manager Katherine Shea at (916) 263-0880 to request assistance if he intends to amend his third due process hearing request to move forward on his 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.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings