

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT AND PALISADES  
CHARTER HIGH SCHOOL.  
OAH CASE NUMBER 2021080556

ORDER FINDING COMPLAINT INSUFFICIENT IN PART

SEPTEMBER 7, 2021

On August 18, 2021, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District. On September 1, 2021, Los Angeles 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 students 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 46540, p. 46699.)

## DISCUSSION

Here, Student alleges three issues with several subparts, comprising a denial of a free appropriate public education, referred to as a FAPE, from the 2019-2020 school year through the 2021-2022 school year. Other than two pages of fact allegations which is

mostly background information, and three and half pages of very detailed proposed resolutions, the remaining six pages consisting of the issues appears to be a template pleading filled with generalities, vague allegations, and devoid of facts related to how Los Angeles denied Student a FAPE, such that it makes it impossible to ascertain what deficiencies Student alleges throughout the time period at issue. Student references two individual educational program team meetings, called IEP, in the facts but it is unclear if these IEPs are the same ones referenced in some of the issues. Further, other than the mention of the two IEP team meetings, the complaint consists of mostly general conclusions. Besides the child find issue located in issues 1(e), 2(e), and 3(e), which is sufficiently pled, the issues in Student's complaint could apply to any student, attending any school. Thus, issues 1(a), (b), (c), (d), (e), 2(a), (b), (c), (d), (e), and 3(a), (b), (c), (d), (e), except the child find issues, are insufficiently pled for the reasons discussed below.

Issues 1(a), 2(a), and 3(a) allege Los Angeles failed to timely and appropriately assess Student in all areas of suspected disability. The complaint does not identify any areas of suspected disability Los Angeles failed to assess. Neither does the complaint allege what assessments Los Angeles conducted, when, and how they were deficient. Failure to identify specific assessments and perceived deficiencies renders these issues vague and confusing and does not provide Los Angeles with sufficient information or notice needed to prepare for hearing, and participate in a resolution session and mediation. For these reasons, issue 1(a), 2(a), and 3(a) are insufficiently pled.

Issue 1(b), 2(b), and 3(b) allege Los Angeles failed to find Student eligible for special education, placement, and services, and properly identify and address the full range of Student's needs. First, Student merges issues pertaining to eligibility and needs, and different laws apply to each. Second, Student fails to identify which

eligibility categories Los Angeles should have found Student eligible for. Third, Student failed to allege what needs were not properly identified and addressed. The failure to identify eligibility categories, specify unaddressed needs, and conflating two separate legal issues renders these issues vague and confusing and does not provide Los Angeles with sufficient information or notice needed to prepare for hearing and participate in a resolution session or mediation. For these reasons, issues 1(b), 2(b), and 3(b) are insufficiently pled.

Issue 1(c), 2(c), 3(c) alleges Los Angeles failed to develop IEPs with appropriate present levels of performance and measurable annual goals, to properly meet Student's needs. The complaint fails to allege a single present level or annual goal, tied to any area of need in any specific IEP that was deficient. Nor does the complaint allege that every present level and annual goal was inadequate. The pleading of these issues is vague and overbroad and does not provide Los Angeles with sufficient information or notice needed to prepare for hearing, and participate in a resolution session and mediation. For these reasons, issues 1(c), 2(c), 3(c) are insufficiently pled.

Issue 1(d), 2(d), and 3(d) state a list of placement and services which Student contends Los Angeles should have offered but did not. Student fails to include any facts related to what placement was needed, why goals were inappropriate, and what type of accommodations or extended school year services should have been offered by Los Angeles. The failure to include and any specificity related to placement, goals, accommodations, and extended school year, renders these issues vague and confusing and does not provide Los Angeles with sufficient information or notice needed to prepare for hearing, and participate in a resolution session or mediation. For these reasons, issue 1(d), 2(d), 3(d), are insufficiently pled.

Issue 1(e), 2(e), and 3(e) allege Los Angeles committed various procedural violations, including failing to timely and properly: exercise its child find obligation, assess Student, consider a private assessor's findings, hold timely IEP meetings, and make a formal specific offer of services. The only allegations sufficient here are the child find obligations, all other procedural violations fail to include any description and facts related to them. For example, Student fails to allege when Los Angeles failed consider the private assessment findings, what IEP team meetings were untimely, and what was deficient about Los Angeles' service offers to render them deficient. The failure to allege when the acts or omissions that gave rise to the procedural violations occurred and any specificity related to the violations renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing, and participate in a resolution session and mediation. Additionally, Student includes language "including but not limited to" rendering the complaint overbroad and vague. For these reasons, Student's issues 1(e), 2(e), and 3(e), except the child find allegations, are insufficiently pled, as it does not provide Los Angeles with sufficient information or notice needed to prepare for hearing. The child find allegations in issue 1(e), 2(e), and 3(e) are deemed sufficiently pled.

## ORDER

1. Issues 1(e), 2(e), and 3(e) child find allegations in Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues 1(a), (b), (c), (d), 2(a), (b), (c), (d), and 3(a), (b), (c), (d) in Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).

3. Issues 1(e), 2(e), and 3(e) allegations, except for the child find allegations, in Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
4. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
5. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
6. If Student fails to file a timely amended complaint, the hearing shall proceed as scheduled only on the child find issue as stated in issues 1(e), 2(e), and 3(e).

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings