

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080922

ORDER OF DETERMINATION OF SUFFICIENCY OF
DUE PROCESS COMPLAINT

SEPTEMBER 17, 2021

On August 31, 2021, 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 15, 2021, Los Angeles filed a Notice of Insufficiency as to the complaint.

On September 10, 2021, Student filed a Motion to Amend the complaint and an amended complaint; however, the amended complaint was not signed and a proof of service was not filed. Student's amended complaint has not been filed by OAH. Student's complaint filed August 31, 2021, is considered in this order.

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

Los Angeles contends that Student's complaint is insufficient because the Request for Due Process form it received was blank. The complaint that Student filed with OAH alleges two claims. On September 16, 2021, OAH provided Los Angeles a courtesy copy of the Student's complaint.

This Order considers the Student's two claims and the legal standard for sufficiency is applied because of the time constraints required for Los Angeles's motion challenging the sufficiency of the complaint.

Student's complaint alleging two claims is sufficient. The first claim alleges Student displays behavior that requires constant supervision for his safety and the safety of other students. Student claims they require supervision while their aide takes rest and meal breaks. Student alleges they requested supervision during these times and were told that Los Angeles could not provide supervision based upon insufficient staffing. Student contends that Parent is required to pick them up at 1:00 PM each day because they are not provided the necessary supervision. Student alleges they are missing three hours of school each day because of Los Angeles' failure to provide an aide to supervise them. The second claim alleges that transportation services were removed from Student's individualized education program without notice. Student contends he requires transportation services based on medical and behavior needs.

Student's complaint identifies two issues and adequate facts about the problem to permit Los Angeles to respond and participate in a resolution session and mediation. Therefore, Student's statement of the two claims is sufficient.

Nothing in this order prevents Student from filing a motion to amend and an amended complaint with proof of service.

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