

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BERRYESSA UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021090313

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE
PROCESS COMPLAINT AND NOTICE OF NO ACTION ON

SERVICE OF PROCESS OR STAY PUT

SEPTEMBER 21, 2021

On September 13, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Berryessa Union School District as respondent. The request for due process mentioned a change to Student's "status quo" but no Stay Put motion was filed. On September 17, 2021, Berryessa filed a Notice of Insufficiency as to the complaint. The notice of insufficiency also included an assertion that the complaint was not properly served. However, no motion related to defective service of process was filed.

NOTICE OF INSUFFICIENCY

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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) All that is required in a due process hearing complaint is a description of the nature of the problem of the child related to the proposed initiation or change to the child's identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The due process hearing request must also include facts relating to the problem and a proposed resolution of the problem to the extent known to the party at the time of filing. (Ed. Code §56502(c)(1)(C) and (D); 20 U.S.C. § 1415 (b)(7)(B)(iii).) 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; *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.)

The facts alleged in Student's complaint are sufficient to meet both federal and state pleading requirements for special education cases. (20 U.S.C. § 1415(b)(6) and (b)(7)(B)(iii); Ed. Code, §§ 56501, subd. (a) and 56502, subd. (c)(1)(C) and (D).) Student's complaint identifies issues associated with changes to his IEP and placement and adequate facts about the problems to permit Berryessa to respond and participate in a resolution session and mediation. Berryessa has cited to no persuasive authority that mandates additional information be included in Student's request for due process. Prior OAH Special Education decisions are not precedential authority. (Govt. Code § 11425.60; tit. 5, Cal Code Regs, § 3085.)

MOTION TO DISMISS FOR FAILURE TO SERVE

Berryessa's Notice of Insufficiency alleges Student failed to properly serve the complaint. OAH requires that motions of different types be filed separately. Therefore, no action is taken regarding the alleged failure to serve. Nothing in this order prevents Berryessa from filing any motion it deems necessary related to a failure to properly serve the complaint.

STAY PUT

Student's complaint mentions a change in student's "status quo." However, Student did not file a motion for stay put. Therefore, no action will be taken regarding stay put as it relates to this Student. Nothing in this order prevents Student from filing a Stay Put motion.

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.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings