

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090346

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE
PROCESS COMPLAINT

SEPTEMBER 27, 2021

On September 13, 2021, Parent on behalf of Student filed a Due Process Hearing Request, called complaint, with the Office of Administrative Hearings, called OAH, naming Capistrano Unified School District. On September 24, 2021, Capistrano Unified School District 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

Capistrano asserts the complaint is insufficient because it is form template with slight information regarding Student. While the complaint is a form template with nominal information, it sufficiently alleges that Capistrano denied Student a free appropriate public education, called FAPE, by failing to implement Student's February 6, 2020 individualized education program, called IEP. Student identifies the basis of this allegation as being Capistrano's failure to provide in-person instruction during school closures related to the COVID-19 pandemic. Student seeks various remedies, including reimbursement for educational expenses, assessments, and for the IEP to be implemented in-person.

Student also alleges a claim pursuant to 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), that falls outside of OAH's jurisdiction. OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51). Capistrano may seek to dismiss this issue through a separate motion.

Therefore, the facts alleged in Student's complaint are sufficient as to the issues described above. Student complaint identifies the issues and adequate facts about the problem to permit Capistrano to respond and participate in a resolution session and mediation. Should Student believe that additional issues were included in the complaint, Student may timely amend the complaint.

ORDER

1. The complaint is sufficient as to the issues described herein 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.


Paul H. Kamoroff (Sep 27, 2021 11:47 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings