

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 2021090411

ORDER OF DETERMINATION OF SUFFICIENCY OF
DUE PROCESS COMPLAINT

SEPTEMBER 16, 2021

On August 9, 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 District in OAH case number 2021080248. On August 13, 2021, Los Angeles timely filed a notice of insufficiency as to the complaint. On August 16, 2021, OAH issued an Order Finding Complaint Insufficient. OAH ordered Student to file an amended complaint within 14 days, or the matter would be dismissed.

On August 31, 2021, fifteen days after OAH's order, Student untimely filed an amended complaint in OAH case number 2021080248 naming Los Angeles as

respondent. On September 14, 2021, Los Angeles timely filed a Notice of Insufficiency as to the amended complaint.

Student's complaint filed on August 31, 2021, in OAH case number 2021080248 was dismissed for failure to timely amend the complaint within 14 days of OAH's order.

Student's complaint filed on August 31, 2021, is deemed a newly filed complaint as of August 31, 2021. Los Angeles' Notice of Insufficiency, filed September 14, 2021, is deemed timely filed in the instant matter.

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

The facts alleged in Student's complaint are sufficient. Student's complaint alleges two claims. The first issue alleges a denial of a free appropriate public education, called FAPE, from April 2, 2020, through the end of the 2020-2021 school year, including 2021 extended school year. The second issue alleges a denial of FAPE during the 2021-2022 school year. For each school year at issue, Student alleges they were denied FAPE based on Los Angeles' failure to assess in all areas of suspected disability and failure to identify and address Student's full range of needs in the individualized education program, referred to as IEP. Student alleges the IEP offer dated May 21, 2020 failed to contain appropriate present levels of performance, measurable goals, placement, and services. Student alleges Los Angeles did not provide an IEP offer for the 2021-2022 school year.

Student alleges for each school year, they were denied FAPE based upon Los Angeles' failure to offer a full-time appropriate placement 30 hours per week, one-to-

one academic services, individual and group speech and language therapy, occupational therapy, social skills services, a behavior support plan, appropriate goals, and extended school year services. For each school year at issue, Student also alleges denials of FAPE based upon the following procedural violations: failure to provide procedural safeguards, failure to conduct proper assessments, failure to specify placement and services, failure to hold timely and properly constituted IEP team meetings, and failure to timely initiate due process proceeding with regard to portions of the IEP to which Student did not consent.

Student's complaint identifies the 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.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. The prehearing conference and hearing dates in this matter are confirmed.
3. Student's amended complaint in OAH case number 2021080248 is deemed filed on August 31, 2021, in the instant matter.

4. Los Angeles Notice of Insufficiency is deemed filed on September 14, 2021, in the instant matter.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings