

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

CALIFORNIA CONNECTIONS ACADEMY.

OAH CASE NUMBER 2021080880

ORDER DETERMINING ISSUES TWO, THREE, AND FOUR OF
THE AMENDED DUE PROCESS COMPLAINT TO BE
INSUFFICIENT

OCTOBER 15, 2021

On August 30, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming California Connections Academy, a charter school. On October 1, 2021, OAH convened a prehearing conference, at which time Student, Academy's attorney, and the administrative law judge discussed the three issues alleged in Student's complaint. At that time, the prehearing conference and hearing were continued to give the Student adequate opportunity to review the statement of issues, to timely prepare a prehearing

conference statement, and to identify the witnesses and exhibits Student would like to introduce at the hearing.

On October 10, 2021, Student filed a motion to amend the complaint. On October 13, 2021, OAH granted Student's motion and the amended complaint was deemed filed. OAH also reset the applicable timelines (20 U.S.C. §1415(c)(2)(E)(ii) and issued a new scheduling order. On October 14, 2021, Academy timely filed a Notice of Insufficiency as to the amended 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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

Student’s amended complaint alleges four issues, one of which is sufficient while the others are insufficient. The issues are discussed below.

ISSUE ONE IS SUFFICIENT

Issue One is sufficient. Issue One states that the Academy violated Student’s federal and state procedural rights by failing to issue a prior written notice at least 15 days before issuing Student a diploma, which changed Student’s educational placement. Issue One is sufficiently pled to put Academy on notice as to the basis of Student’s claim.

ISSUES TWO, THREE, AND FOUR ARE INSUFFICIENT

Issues Two, Three, and Four are insufficient because they lack facts supporting the claims. Issue Two refers to services provided by his individualized education programs, referred to as an IEP but does not assert that the services were not provided or were insufficient. Issue Two also asserts Student asked to remain in high school at the February 2019 IEP but was told he was too old to remain. Student then claims that the Academy's issuance of a high school diploma was unlawful. Issue Two's allegations are confusing and do not indicate who convened the IEP meetings, who told Student he was too old to stay in high school, or why the June 2019 high school diploma was unlawful. Also, Student refers to a February 2020 IEP but says the Academy issued a diploma in June 2019, exiting him from high school and special education. Issue Two does not inform the Academy with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation

Issue Three refers to assessments but is unclear whether the Academy was obligated to assess or failed to assess as part of a triennial or annual IEP. Issue Three states that Student was not tested before being exited from special education, before the high school diploma's issuance. Student does not allege who was obligated to assess Student, why assessment was required or necessary, and how assessment was connected to the issuance of a diploma. Issue Three is not sufficiently pled and does not provide the Academy with an awareness and understanding of the basis for Student's Issue Three.

Issue Four was added in Student's amended complaint and is insufficient. Student states that the IEP documents from the January 8, 2018 IEP and the February 25, 2019 IEP should be closely examined to see if the Academy provided Student with a free appropriate public education, referred to as a FAPE. However, Student does not indicate

whether the IEP's were convened by Student's school district or the Academy, when the Academy was responsible for providing Student with a FAPE, whether the Academy failed to implement the IEP's or the IEP's failed to offer a FAPE, and what services and supports were necessary to provide a FAPE. Issue Four is not sufficiently pled and does not provide the Academy with an awareness and understanding of the issues forming the basis of the complaint.

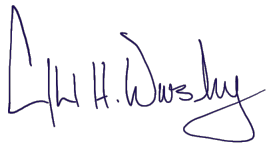
MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARTY

A parent or student without an attorney may request that OAH provide a mediator to assist the parent or student in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Here, Student should contact OAH and obtain mediator assistance to amend Student's amended due process hearing request.

ORDER

1. Issue One of Student's amended complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues Two, Three, and Four of Student's amended complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issue One of Student's amended complaint.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley".

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings