

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT AND  
ROSEMONT HIGH SCHOOL.

OAH CASE NUMBER 2021100144

ORDER PARTIALLY GRANTING NOTICE OF INSUFFICIENCY  
OF COMPLAINT AND GRANTING LEAVE TO AMEND AS  
TO ISSUE THREE

OCTOBER 15, 2021

On October 04, 2021, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Sacramento City Unified School District and Rosemont High School, respondents. On October 14, 2021, respondents filed a response and an amended response to the complaint. Respondents also filed a Notice of Insufficiency as to the complaint on October 14, 2021.

## 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, 1<sup>st</sup> Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1<sup>st</sup> 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 complaint alleges three issues. Issue One alleges that on September 23, 2019, Parent requested that respondents conduct a psychoeducational assessment for Student, but respondents did not timely respond to the request. Issue One further alleges that respondents conducted a psychoeducational evaluation which was untimely reviewed with Parent on or around March 11, 2020. Issue One is sufficiently pled to permit respondents to respond and participate in a resolution session and mediation, and respondents responded to Issue One in their response and amended response filed on October 14, 2021.

Issue Two alleges Parent requested an independent educational evaluation on or around March 11, 2020 and suggests respondents did not respond to this request. Although respondents claim it is unclear which area Parent requested an independent educational evaluation, it can be reasonably inferred Parent was referring to an evaluation in psychoeducation. Issue Two is sufficiently pled.

Issue Three alleges respondents failed to provide Student adequate educational services. The complaint does not specify which services Parent contends the respondents failed to provide to Student. Issue Three is insufficiently pled for

respondents to have an awareness and understanding of the basis for this allegation. Therefore, Issue Three is insufficiently pled.

A parent without an attorney may request that OAH provide a mediator to assist the parent identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parent is encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

## ORDER

1. Issues One and Two of Student's complaint are sufficiently pled under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issue Three Is 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). 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.
4. If Student fails to file a timely amended complaint, the matter will proceed as to Issues 1 and 2 only.

IT IS SO ORDERED.

*Jennifer Kelly*

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings