

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090707

ORDER OF DETERMINATION OF SUFFICIENCY OF

DUE PROCESS COMPLAINT

OCTOBER 8, 2021

On September 22, 2021, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Elk Grove Unified School District. On October 7, 2021, Elk Grove filed a Notice of Insufficiency as Student's complaint, issue seven.

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 complaint was filed on September 22, 2021, and Elk Grove filed its Notice of Insufficiency on October 7, 2021. Thus, Elk Grove's Notice of Insufficiency was timely filed.

Elk Grove asserts that Student's issue seven was insufficiently pled because it is vague as to time, lacks specificity, and provides no nexus to the alleged violation and Student's free appropriate public education; thus, it fails to meet minimal pleading requirements. The undersigned finds that Student issue seven is sufficiently pled and provides Elk Grove with adequate notice as to the basis of Student's claim.

Student's issue seven alleges Elk Grove denied Student a free appropriate public education because it failed to address Student's regression in speech and language, academics, occupational therapy, vocational skills, and behavior from March 2020 through the time of filing, due to distance learning. Here, Student provided adequate facts and information, including a specific time period, to allow Elk Grove to respond, defend itself, and participate in a resolution session, mediation, and due process hearing. Accordingly, Student's issue seven is sufficient.

ORDER.

1. Student complaint, issue seven, is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All dates in this matter are confirmed.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings