

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021090789

ORDER OF DETERMINATION OF INSUFFICIENCY
OF DUE PROCESS COMPLAINT

OCTOBER 5, 2021

On September 24, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Huntington Beach Union High School District. On October 1, 2021, OAH granted Huntington Beach's motion to dismiss the first and second issues stated in Student's complaint for lack of jurisdiction, but denied the motion to dismiss the third issue stated in Student's complaint for lack of jurisdiction. On October 4, 2021, Huntington Beach filed a Notice of Insufficiency as to the only remaining issue in Student's complaint, the third issue.

Also on October 4, 2021, after Huntington Beach filed its Notice of Insufficiency, Student filed a single paragraph document described as a “motion to proceed with [Student]’s case.” In a small respect it seems to respond to Huntington Beach’s Notice of Insufficiency, but more of the paragraph addresses the issues that were already dismissed on October 1, 2021. Student’s filing was considered in ruling on Huntington Beach’s Notice of Insufficiency and no further action will be taken regarding Student’s filing.

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

After the dismissal on October 1, 2021, of Student's first and second issues due to OAH's lack of jurisdiction over those claims, Student's complaint alleges only one issue, which is insufficiently pleaded. Student alleges he has attention deficit hyperactivity disorder, and has an individualized education program, called an IEP. But Student's complaint fails to specify which IEP or IEPs he challenges, or in what way any IEP developed during the two-year statute of limitations was inappropriate or insufficient and therefore denied him a free appropriate public education, called a FAPE. Student's complaint does not at all allege, alternatively, a denial of FAPE based on any material failure to implement any IEP developed during the two-year statute of limitations. The remaining issue in the complaint alleges Student "needs one-on-one help" and "[d]istance learning is not an option because you can't follow a IEP without being in class." These statements fail to provide Huntington Beach with the required problem description and the facts relating to the problem to enable Huntington Beach to know

how to prepare for the hearing and how to participate in a resolution session and/or mediation.

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

ORDER

1. Student's complaint is insufficiently pleaded under title 20 United States Code section 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. 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 complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings