

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
  
PARENTS ON BEHALF OF STUDENT,

v.

CHICO UNIFIED SCHOOL DISTRICT .  
  
OAH CASE NUMBER 2021100025

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE  
PROCESS COMPLAINT

OCTOBER 6, 2021

On September 30, 2021, Parents on behalf of Student filed a due process hearing request, called complaint, with the Office of Administrative Hearings, called OAH, naming Chico Unified School District. On October 5, 2021, Chico filed a Notice of Insufficiency as to the 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, 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

Student filed the complaint on September 30, 2021, and Chico filed the Notice of Insufficiency on October 5, 2021. Thus, the Notice of Insufficiency was timely filed.

Chico asserts that the complaint in its entirety is insufficiently pled because it is vague, confusing, and without facts or any explanation as to how Chico has impacted Student's education. Additionally, Chico maintains that the proposed resolution is outside of OAH's jurisdiction.

Here, Student alleged one issue in the complaint that is insufficiently pled. Student's issue one alleges "[C]ivil rights violation, criminal negligence, harassment/bullying, defamation of character. Will add more details later." The complaint, as written, fails to provide Chico with the required description of facts relating to the problem. Student failed to explain how this issue connects to or is in violation of the Individuals with Disabilities Act, or Student's free appropriate public education. The issue as written is vague, confusing, and overbroad at to time, and devoid of any facts, dates, or circumstances. Therefore, Student failed to state facts sufficient to support its claim against Chico and put it on notice of the issue in this matter in order to defend itself or to participate in a resolution session, mediation, or due process hearing. Accordingly, issue one is insufficiently pled.

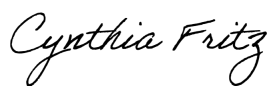
A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint is not well-defined. It states

"Force KB Legal to quite representing school district. Do not know of any solutions that exist." Here, the proposed resolution is unclear. Thus, the proposed resolution is insufficiently pled.

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 pled under section title 20 United States Code 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.



Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings