

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GLENDALÉ UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100282

ORDER DETERMINING DUE PROCESS COMPLAINT
INSUFFICIENT

OCTOBER 25, 2021

On October 12, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Glendale Unified School District. On October 22, 2021, Glendale filed a Notice of Insufficiency as to the complaint, on the grounds that Student failed to clearly identify the issues for hearing and failed to include relevant supporting facts.

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.)

Student's complaint is insufficiently pled. In paragraph 2, the complaint alleges the following issue:

"At all times since the beginning of the 2021-2022 school year, [Glendale] has failed to offer [Student] an educational placement that would allow her to access the general education curriculum and make meaningful academic progress, thereby denying her a FAPE."

While the complaint includes more than three pages of facts, most of the facts predate and are not relevant to the alleged issue. The relevant facts alleged are that Glendale held an IEP team meeting on June 9, 2021, offered Student a FAPE for the 2021-2022 school year, and that based on Glendale's offer, Parents gave prior written notice that they would continue Student's private placement. The complaint does not include any specific facts as to why or how the June 9, 2021 IEP denied Student a FAPE.

Consequently, the complaint does not include enough information for Glendale to have an awareness and understanding of the issues that form the basis of the complaint, or to effectively prepare for a resolution session, mediation, or due process hearing.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. Student may file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II), which must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and must be filed not later than 14 days from the date of this Order.
3. If Student fails to file a timely amended complaint, the complaint will be dismissed.
4. All dates previously set in this matter are vacated.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings