

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENT ON BEHALF OF STUDENT,

and

TAMALPAIS UNION HIGH SCHOOL DISTRICT,
OAH CASE NUMBER 2021100290
OAH CASE NUMBER 2021110001

ORDER FINDING TAMALPAIS DUE PROCESS COMPLAINT
SUFFICIENT

NOVEMBER 04, 2021

On October 8, 2021, Parent on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing in OAH case number 2021100290, naming Tamalpais Union High School District. A request for due process hearing is referred to as a complaint.

On October 28, 2021, Tamalpais Union filed a complaint in OAH case number 2021110001, naming Student. The two cases were consolidated by OAH Order dated November 4, 2021.

On November 4, 2021, Student filed a notice of insufficiency as to Tamalpais's 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).

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, called a FAPE, (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, and 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 facts alleged in Tamalpais's complaint are sufficient. Tamalpais alleges that Student is placed in a program with embedded academic and social emotional supports and is doing well. It also alleges that Student will turn 18 within two months and is a strong advocate for himself. Tamalpais alleges that despite this, in October 2021, Student's mother sought to have all of Student's grades changed to Fs, and when that failed, revoked partial consent to various components of Student's educational program through a series of letters, although she did not revoke consent to Student receiving special education.

Tamalpais's complaint seeks an order on two claims. First, that its individualized education program, or IEP, dated December 22, 2020, as amended on February 11, 2021 and April 29, 2021 offered him a FAPE.

Second, Tamalpais seeks a decision that it appropriately maintained Student in his current special education placement pending a due process hearing decision on how to interpret the series of parental partial revocations.

Both of these issues state IDEA claims regarding the provision of a FAPE to Student. Tamalpais's complaint identifies the issues and adequate facts about the

problems to permit Student to respond. Therefore, Tamalpais's statement of its two claims is sufficient.

ORDER

1. Tamalpais's complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in these consolidated matters are confirmed.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings