

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021100515

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE
PROCESS COMPLAINT

NOVEMBER 3, 2021

On October 18, 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 Salinas Union High School District. On November 2, 2021, Salinas Union filed a Notice of Insufficiency as to the complaint's Issue 3 and proposed resolution.

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

Salinas Union contends Issue 3 of the complaint is insufficient for failing to describe the period related to the alleged violations in Issue 3. In addition, Salinas Union argues the complaint fails to describe facts related to injuries occurring at school, or the costs and treatment for injuries to support Student's request for reimbursement for out-of-pocket medical costs.

Issue 3 involves alleged violations by Salinas Union in failing to provide Student in-person supports and services to maintain Student's levels of functioning during distance learning. Paragraph 6 of the complaint contends that Student could not access his curriculum via distance learning from March 17, 2020, through the date of the filing of the complaint. In describing the problems in Issue 3, the complaint incorporated paragraph 6. Therefore, the complaint sufficiently describes the problems in Issue 3 and the time in which the alleged violations occurred. Accordingly, Issue 3 of the complaint is sufficient.

Furthermore, the complaint is not deemed insufficient for failing to describe the problems related to Student's proposed resolution for reimbursement for out-of-pocket medical costs. A description of facts supporting a proposed resolution is not required to satisfy the requirements of title 20 United States Code section 1415(b)(7)(A), and therefore, Student has met the statutorily required standard regarding proposed resolutions. Student carries the burden of demonstrating at hearing that reimbursement for out-of-pocket medical costs is an equitable remedy for the violations alleged in the complaint and established at hearing. (*School Committee of Town of Burlington, Mass. v. Department of Educ. of Mass.* (1985) 471 U.S. 359, 374 [105 S.Ct. 1996, 85 L.Ed.2d 385].)

ORDER

1. Issue 3 and the proposed resolutions of the complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Prehearing conference and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings