

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100695

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE
PROCESS COMPLAINT

NOVEMBER 8, 2021

On October 22, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District as respondent. On November 5, 2021, Los Angeles 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).

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

The facts alleged in Student's complaint are sufficient. Los Angeles concedes that Student's complaint provides a "lengthy and exhaustive" description of allegations as well as proposed resolutions. However, Los Angeles contends that Student's complaint is insufficient, as it is devoid of facts to explain the specific nature of the allegations. Student's complaint provides adequate information to meet the applicable pleading standard.

Student's Issues 1(a) and 2(a) allege that Los Angeles failed to appropriately and timely assess Student in all areas of suspected disability. Student's complaint details the areas of Student's suspected disability that Los Angeles allegedly failed to assess, as well as the date that Los Angeles allegedly agreed to and failed to assess Student. Student's Issues 1(b) and 2(b) allege that Los Angeles' assessments and individualized program plans, called IEP's, failed to properly identify and address Student's needs. Student specifically lists the areas of Student's needs which Student alleges Los Angeles failed to identify and address.

Student's Issues 1(c) and 2(c) allege that Los Angeles failed to offer IEP's which contain appropriate statements of Student's present levels of performance, measurable IEP goals, and accommodations. Student sets forth the specific areas of Student's functioning that Student asserts Los Angeles failed to address through IEP goals. Student's Issues 1(d) and 2(d) allege that Los Angeles failed to provide appropriate placement and services to meet Student's unique needs. Student specifically lists the placement and services Student allegedly requires. Student's Issues 1(e) and 2(e) allege that Los Angeles denied Student's procedural safeguards, specifically, Student's rights to proper assessment, meaningful parental participation, Los Angeles' consideration of private assessments, IEP team meeting participation of all required IEP team members,

consideration of the continuum of placement options, a formal and specific offer of placement and services that is not predetermined, and a legally sufficient transition plan.

Student's Issues 1(a-e) and 2(a-e) identify the issues and adequate facts about the problem to permit Los Angeles to respond and participate in a resolution session and mediation. Therefore, Student's complaint is deemed sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings