

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT
AND CAMPBELL UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021100707

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 Cupertino Union School District and Campbell Union High School District as respondents. On November 5, 2021, Cupertino Union School District 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.] 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 46541, 46699.)

DISCUSSION

General confusion is created in this complaint by the lack of clarity regarding which factual statements pertain to which respondent; and which respondent is alleged to be responsible for asserted violations of the Individuals with Disabilities in Education Act, or IDEA. This is compounded by the nearly identical acronyms employed for the two school districts. It is recommended that, should Student choose to amend his complaint, the terms "Cupertino" and "Campbell" be used, for clarity, for the two districts being discussed, rather than CUSD and CUHSD. Furthermore, Cupertino's concern that the complaint lacks clarity when Student employs the term "district" in the singular when making allegations with dates that include times when Student attended two different districts is well founded.

Student's complaint alleges only four issues lettered A through D. The issue statements are listed in a section entitled "Legal Arguments." The complaint fails to provide Cupertino with a clear statement of facts pertaining to the allegations against it. The issues include dates that appear to reference time frames during which Student was enrolled in Cupertino, but reference only Campbell or "district" resulting in vague and confusing allegations. Cupertino is denied an understanding or awareness of the issues being asserted against it when statements fail to clearly identify whether Cupertino is alleged to have denied Student a free, appropriate education, the dates of the alleged violations and the bases of the violations asserted.

1. Student's complaint is insufficiently pled against Cupertino Union School District 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 as to Cupertino Union School District, and the hearing shall proceed only as to Campbell Union High School District on the dates currently scheduled.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings