

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MANTECA UNIFIED SCHOOL DISTRICT AND
SAN JOAQUIN COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021110320

ORDER FINDING COMPLAINT INSUFFICIENT AS TO
SAN JOAQUIN COUNTY OFFICE OF EDUCATION

NOVEMBER 24, 2021

On November 08, 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 Manteca Unified School District and San Joaquin County Office of Education. On November 23, 2021, San Joaquin timely 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 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; includes facts about the problem; and 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

Student's complaint alleges eight issues arising in the 2019-2020 and 2020-2021 school years, with issues 1, 2 and 3 naming San Joaquin. However, although those three issues list San Joaquin at the beginning, none of them include claims against San Joaquin. Issue 1 alleges that Manteca unilaterally changed Student's individualized education program, or IEP, to distance learning and failed to implement the IEP. Issue 2 alleges that Manteca has failed to timely conduct an independent educational evaluation, resulting in a denial of a FAPE. Issue 3 alleges that Manteca has failed to provide the braille and assistive technology included in Student's IEP, and failed to conduct an assistive technology assessment, also denying Student a FAPE.

Student alleges in the body of the complaint that Parents entered into an agreement for educational services with both Manteca and San Joaquin in March 2021, but the actual issues pleaded state claims only against Manteca. There are no allegations that San Joaquin has a duty to provide Student with a FAPE or to implement his IEP, only that San Joaquin receives federal funds to spend on special education and that San Joaquin was party to a prior agreement. OAH has jurisdiction to adjudicate claims that allege a student was denied a FAPE as a result of a settlement agreement breach, but the simple breach of a settlement agreement should be addressed by the California Department of Education's compliance complaint procedure. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029; *Pedraza v. Alameda Unified School Dist.* (N.D. Cal. 2007, No. C 05-04977 VRW) 2007 WL 949603.)

The complaint fails to provide San Joaquin with the required problem description and the facts relating to the problem.

This Order does not change or impact the Order dated November 23, 2021, finding Student's complaint partially sufficient as to Manteca.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) as to San Joaquin County Office of Education.
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 San Joaquin County Office of Education only.
5. All dates previously set in this matter as to Manteca Unified School District are confirmed.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings