

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 DETERMINING THE DUE PROCESS COMPLAINT

PARTIALLY SUFFICIENT

NOVEMBER 23, 2021

On November 8, 2021, 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 22, 2021, Manteca 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

Student alleges eight issues in the complaint, four that are sufficient and four that are insufficient. All eight issues are framed under a global issue of a denial of a free appropriate public education, referred to as FAPE, during the 2019-2021 school years. Student's complaint lists a narrative of the problems prior to listing the issues. The narrative provides background information and facts regarding the issues.

Manteca argues Student's complaint is insufficient because OAH does not have jurisdiction over the issues and Student did not present sufficient facts for Manteca to understand the nature of the complaint. Both Manteca and Student agree they signed a settlement agreement on March 26, 2021, waiving all claims through that date. Manteca alleges Student's issues are barred by the settlement agreement and Student does not provide any facts regarding what Student believes was not resolved by the settlement agreement and what remains an issue for hearing.

Each of Student's eight issues is followed by a paragraph with specific information related to the issue. Issues One through Four acknowledge the settlement agreement and allege a breach of the settlement agreement based on Manteca failing to provide something agreed to in the settlement agreement. Issues One through Four identify the problem and adequate facts to permit Manteca to respond and participate in a resolution session and mediation. Manteca's allegation that OHA does not have jurisdiction to hear these issues because of the settlement agreement is not an appropriate argument for a notice of insufficiency. Manteca may file a motion to dismiss issues barred by the settlement agreement if it believes OHA does not have jurisdiction to hear issues One through Four.

Issues Five through Eight do not include the same language about an alleged breach of the settlement agreement. Issue five alleges Manteca failed to provide prior written notices for the last five years. However, issue Five is framed under the allegation of a denial of FAPE during the 2019-2021 school years. Student does not provide any additional information about the alleged time period, what requests required a prior written notice, or if this issue also alleges a breach of the March 2021 settlement agreement. Student has failed to state sufficient facts supporting this claim, and the claim is insufficient.

Issue Six, Seven, and Eight all allege Manteca failed to offer an appropriate individualized education program, referred to as an IEP, failed to adequately monitor Student's IEP progress, and the IEP failed to provide educational benefit. However, Student does not allege a specific IEP or clarify if these issues also allege a breach of the settlement agreement or allege a new issue after the March 2021 settlement agreement. Therefore, Student has failed to state sufficient facts supporting these claims, and the claims are insufficient.

Student's proposed resolutions request training for Manteca, independent educational evaluations, compensatory education, and reimbursement. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint are well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Issues One, Two, Three, and Four in Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues Five, Six, Seven, and Eight in Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues One, Two, Three, and Four, in Student's complaint.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings