

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021110388

ORDER FINDING DUE PROCESS COMPLAINT SUFFICIENT

NOVEMBER 30, 2021

On November 15, 2021, Parent on behalf of Student field a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Fremont Unified School District. On November 29, 2021, Fremont 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 alleges eight claims. At Issues 1, 3, and 8, Student alleges discrimination under the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), and various federal and state civil rights laws. However, at Issues 2, 4, 5, 6 and 8, Student alleges that Fremont has violated Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) and both denied Student a FAPE and interfered with parent's opportunity to participate in developing Student's educational program.

Issue 2 alleges that Fremont eliminated accommodations Student required as a Student with a specific learning disability from Student's June 7, 2019 IEP, failed to comprehensively assess Student prior to changing his eligibility and eliminating accommodations, and failed to amend the IEP in accordance with an agreement with Parent. Issue 4 alleges that Parent revoked consent to the June 7, 2019 IEP on February 12, 2021, but Fremont failed to reinstate Student's prior accommodations necessary for a FAPE, including extra time for tests and assistance from a resource specialist in tracking and organizing assignments and tests. Fremont also allegedly refused to provide Parent with assessment protocols for review and continued to fail to comprehensively assess Student despite increasingly poor academic performance.

At Issue 5, Student alleges that during the 2019-2020 and 2020-2021 school years, Fremont failed to offer him the accommodations necessary for Student to receive academic benefit. In addition, Student's resource teacher allegedly interfered with Student's interaction with his other teachers, and made his academic challenges worse rather than better, resulting in failed classes and Student no longer being on track to graduate in Spring 2022.

Issue 6 alleges that Fremont failed to provide Parent with copies of assessment protocols upon which the IEP team relied in changing Student's eligibility in June 2019, and repeatedly ignored Parent's input at IEP team meetings. Issue 8 alleges that Fremont failed to provide accommodations Student required during the 2021-2022 school year and continues to fail to conduct comprehensive assessments to determine Student's educational needs.

Student's Parent is self-represented, and the complaint is somewhat general and repetitive in several places. However, when read as a whole, the complaint lists specific acts, gives dates and names, and specifies IEPs. Fremont argues that it requires

additional specificity, but the complaint identifies the issues and adequate facts about the problem to permit Fremont to respond and participate in a resolution session and mediation.

Therefore, Student's statement of the claims is 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.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings