

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

RIVER SPRINGS CHARTER SCHOOL,

OAH CASE NUMBER 2021050302

OAH CASE NUMBER 2021060381

ORDER GRANTING DISTRICT'S MOTION TO AMEND
COMPLAINT AND FINDING AMENDED COMPLAINT
SUFFICIENT

DECEMBER 22, 2021

On May 8, 2021, Parent on behalf of Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming River Springs Charter School. The Office of Administrative Hearings is referred to as OAH. On June 10, 2021, River Springs Charter filed a complaint. The matters were consolidated on June 24, 2021. On September 23, 2021, Student's motion to amend its complaint was granted. On December 17, 2021, River Springs Charter filed a Motion to Amend the Due Process Hearing Request and an amended complaint. River Springs

Charter also requests that the current hearing dates remain on the calendar. Student consents to the amendment but has filed a Notice of Insufficiency as to Issue Number Two of the amended complaint.

MOTION TO AMEND

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The motion to amend was filed more than five days before the due process hearing, and OAH has received written consent to the amendment from Student. Therefore, the motion is timely and is granted. River Springs Charter's amended complaint is deemed filed on the date of this order. However, the dates in this case shall reset according to a new scheduling order. The current dates will not be retained.

NOTICE OF INSUFFICIENCY

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

River Springs Charter's amended complaint adds a second issue. That issue alleges that it made an offer of a free appropriate public education, referred to as a

FAPE, to Student in its September 2, 2021 Individualized Education Program, referred to as an IEP. River Springs Charter alleges that the Parent has not consented to the offer and requests an order from OAH to allow it to implement the IEP without parental consent. Student argues that while the request for relief is clear, it is unclear from the amended complaint which placement offer River Springs Charter was making. Student argues that River Springs Charter has made several offers of placement, and Student is therefore not able to respond.

The facts alleged in River Springs Charter's complaint are sufficient, and its complaint identifies the issues and adequate facts about the problem. The issues raised by Student are factual and must be determined at the hearing.

ORDER

1. River Springs Charter's Motion to Amend is granted. The amended complaint is deemed filed as of the date of this order. OAH shall issue a new scheduling order with new dates.
2. The Amended complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

IT IS SO ORDERED.



Brian H. Krikorian

Administrative Law Judge

Office of Administrative Hearings