

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MILPITAS UNIFIED SCHOOL DISTRICT AND
CALIFORNIA SCHOOL FOR THE DEAF-FREMONT.

OAH CASE NUMBER 2021110599

ORDER FINDING COMPLAINT SUFFICIENT AS TO MILPITAS
UNIFIED SCHOOL DISTRICT

DECEMBER 8, 2021

On November 22, 2021, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Milpitas Unified School District and California School for the Deaf-Fremont. On December 7, 2021, Milpitas timely filed a notice of insufficiency as to the complaint.

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.)

The facts alleged in Student's complaint are sufficient as to Milpitas. Student alleges that he joined the basketball team at California School for the Deaf-Fremont, where he has been placed by Milpitas, but that Milpitas has not made transportation arrangements for Student to participate in this extracurricular activity. The complaint alleges that the transportation company arranged by Milpitas has frequently left Student stranded at school in the evenings after team practice, and that Parent has had to pay

for Uber services to bring Student home. Student fears that his excellent grades will suffer because he is getting home too late to complete his homework. Student requests that he be authorized to stay in the dorms at California School for the Deaf-Fremont during basketball season, and that Parent be reimbursed for costs of transportation.

Although Parent is self-represented, the complaint clearly alleges that Milpitas is not providing Student with an appropriate or free public education by making it difficult, dangerous and expensive to participate in extracurricular activities at school.

Student's complaint identifies the issues and adequate facts about the problem to permit Milpitas to respond and participate in a resolution session and mediation. Therefore, Student's statement of the claim against Milpitas is sufficient.

The proposed resolutions stated in Student's complaint are also well defined. Student has met the statutorily required standard regarding proposed resolutions.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) as to Milpitas Unified School District.
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings