

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT AND
ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021120714

ORDER DETERMINING SUFFICIENCY OF
DUE PROCESS COMPLAINT REGARDING ISSUE 5

JANUARY 6, 2022

On December 21, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Rocklin Unified School District and Elk Grove Unified School District. On January 6, 2022, Elk Grove Unified School District filed a Notice of Insufficiency as to the complaint regarding Issue 5, subparts (a), (b), and (d). The complaint did not have a subpart (c) to Issue 5.

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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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's complaint was filed on December 21, 2021. Elk Grove's Notice of Insufficiency was dated, filed with OAH, and served on January 6, 2022, which is 16 days after Student served the complaint on Elk Grove via facsimile. However, Elk Grove asserts it was on winter break at the time Student filed and served his complaint, and that Elk Grove received the complaint on January 3, 2022. Whether Elk Grove received the complaint on December 21, 2021, when Student served the complaint, or when it returned from Winter Break does not matter as Student's complaint is sufficient.

The minimal facts alleged in Student's complaint in support of Issue 5 are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Elk Grove to respond and participate in a resolution session and mediation and to begin to prepare for hearing.

The issues sufficiently raised in Student's complaint, Issue 5, are: Did Elk Grove deny Student a free appropriate public education in the May 27, 2021 IEP by:

- A. Failing to acquire sufficient information about Student's needs due to providing instruction and services through distance learning;
- B. Failing to develop appropriate goals in each goal area included in the May 27, 2021 IEP because the goals offered could not be achieved through online learning and were not sufficiently ambitious, specifically:
 - i. academic English Language Arts re letter sounds;
 - ii. academic mathematics re counting objects;
 - iii. communication re expressive language for self-advocacy;
 - iv. fine motor development re bilateral coordination;
 - v. gross motor development re leg strength, postural control, and transitions;
 - vi. behavior re managing frustration or disappointment; and
 - vii. daily living skills re toileting;
- C. Failing to offer Student special education provided in the physical presence of Student; and
- D. Failing to offer Student appropriate related services, specifically a one-to-one behavior aide to be physically sitting next to Student when he engages in distance education services?

If Student intended to assert any other claims in Issue 5, he failed to do so.

ORDER

1. The complaint with respect to Issue 5 is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings