

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

EAST SIDE UNION HIGH SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022010808

ORDER DETERMINING DUE PROCESS COMPLAINT
SUFFICIENT

FEBRUARY 10, 2022

On January 27, 2022, East Side Union High School District filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Parents on Student's behalf. On February 9, 2022, Student timely filed a Notice of Insufficiency as to the complaint. The parties also filed a request for mediation and continuance of the due process hearing on February 9, 2022 which will be addressed in a separate order.

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.)

East Side Union High alleges the following in its complaint. Student is seventeen years old and in twelfth grade. Student is eligible for special education and has an independent educational program, called IEP. On November 3, 2021, East Side Union High held an IEP team meeting. The IEP offer included an offer to change Student's placement to Beacon School, a nonpublic school, adding group counseling, individual counseling, family counseling and transportation. East Side Union High alleged that the current IEP placement was no longer appropriate and was insufficient to address Student's needs, including Student's social emotional deficits. East Side Union High alleges it sent Parents a prior written notice dated January 10, 2022, including the November 3, 2021 IEP offer. East Side Union High alleges Parent declined to consent to the November 2021 IEP and requested that Student remain placed at East Side Union High through her last agreed upon and implemented IEP, which provided for one period daily of specialized academic instruction and a high level of behavioral supports. East Side Union High seeks an order from OAH finding that the November 3, 2021 IEP offers Student a free appropriate public education.

East Side Union High's alleged facts and proposed resolutions are sufficient. The complaint identifies the issues and adequate facts about the problem to permit Student to participate in a mediation and hearing. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

All mediation, prehearing conference, and hearing dates in this matter will be addressed in the order addressing the parties' joint request for mediation and continuance.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings