

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010843

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE
PROCESS COMPLAINT

FEBRUARY 7, 2022

On January 28, 2022, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming San Diego Unified School District. On February 2, 2022, San Diego 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: (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.) Student's complaint must also contain the residence address of the child. (20 U.S.C. § 1415 (b)(7)(A)(ii)(I); Ed. Code, § 56502, subd. (c)(1)(A).)

Student's complaint alleges three issues with numerous subparts. As to the issues, San Diego generally alleges they are vague, lack facts, and allege issues outside OAH's jurisdiction. San Diego also asserts that Student's complaint is insufficient because it fails to include Student's address as required by law.

Students issues are sufficiently pled to put San Diego on notice as to the basis of Student's allegations so it can participate in a resolution session and mediation. Additionally, a Notice of Insufficiency is not the correct motion to determine jurisdictional issues. Those findings alone, however, do not overcome a Notice of Insufficiency. Here, Student failed to include Student's current residence in the complaint as required, and San Diego is unable to confirm Student's residency. Thus, Student's complaint is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code section 1415 (b)(7)(A)(ii)(I) because Student failed to include Student's residence address in the complaint.
2. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and shall be filed not later than 14 days from the date of this order.
3. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

Cynthia Fritz

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Administrative Law Judge

Office of Administrative Hearings