

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

POMONA UNIFIED SCHOOL DISTRICT AND LOS ANGELES
COUNTY DEPARTMENT OF CHILD AND FAMILY SERVICES.

OAH CASE NUMBER 2022020046

ORDER FINDING COMPLAINT SUFFICIENT AS TO
POMONA UNIFIED SCHOOL DISTRICT

FEBRUARY 15, 2022

On January 31, 2022, 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 Pomona Unified School District and Los Angeles County Department of Child and Family Services. On February 14, 2022, Pomona 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: (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, 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.)

Here, Student alleges that he is enrolled in Pomona, and that Parent consented on September 13, 2021, to an assessment plan prepared by Pomona, but that Pomona has denied him a FAPE by failing to assess Student or offer him an individualized education program, or IEP. Student seeks an assessment by Pomona and compensatory education for missed educational opportunities. Pomona submits the declaration of Pomona's counsel and argues that additional facts in that declaration establish that

Student has been placed in foster care outside of Pomona's boundaries and Pomona no longer owes Student a duty to assess or provide an educational program.

The facts in the declaration may or may not provide Pomona with an affirmative defense to Student's claims. However, the facts alleged in Student's complaint are sufficient to allege that Pomona owed Student a duty to assess and offer a FAPE. Student's complaint identifies the issues and adequate facts about the problem to permit Pomona to respond and participate in a resolution session and mediation.

Finally, the proof of service for Pomona's Notice of Insufficiency does not list Parent or Los Angeles County Department of Child and Family Services.

Therefore, Student's statement of the claims is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
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