

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2024040004

ORDER DETERMINING ISSUE 1 OF THIRD AMENDED DUE
PROCESS COMPLAINT INSUFFICIENT

JUNE 6, 2024

On March 29, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, naming Escondido Union School District. The Office of Administrative Hearings is called OAH. Escondido Union School District is called Escondido Union.

On May 30, 2024, Student filed a third amended complaint after Issue 1 of Student's first amended and second amended complaint were found insufficient by Orders dated May 9, 2024, and May 29, 2024, respectively. The third amended complaint alleges eight issues against Escondido Union.

On June 6, 2024, Escondido Union filed a notice of insufficiency as to Issue 1 of Student's third amended complaint.

The named party has the right to challenge a 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, called a FAPE;
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 giving the named party sufficient information to prepare for the hearing and 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 46540-46541, 46699.)

Student alleges at Issue 1 of the third amended complaint that Escondido Union denied Student a FAPE from March 29, 2022, through February 15, 2023, by failing to properly implement Student's February 24, 2022, individualized education program, or IEP. However, the third amended complaint fails to state a single fact describing what part of Student's February 24, 2022, IEP was not implemented, or in what way it was not implemented. Instead, the third amended complaint speculates that perhaps the February 24, 2022, IEP was not properly implemented because Student did not make progress with the special education and related services offered by that IEP, implicitly acknowledging no known facts regarding a failure to implement the IEP.

Student failed to state sufficient facts supporting Issue 1 to provide Escondido Union sufficient information to know how to prepare for the hearing and how to participate in a resolution session and mediation. Therefore, the claim is insufficient.

ORDER

1. Issue 1 of Student's third amended complaint is insufficiently pleaded under title 20 United States Code section 1415(c)(2)(D).
2. Student shall be permitted to file a fourth amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. Any fourth amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this Order. The filing of a fourth amended complaint will restart the applicable timelines for a due process hearing.

4. If Student fails to file a timely fourth amended complaint, the hearing shall proceed only on Issues 2, 3, 4, 5, 6, 7, and 8 in Student's third amended complaint.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings