BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

NEWARK UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026090706

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT; DENYING REQUEST FOR CONTINUANCE AND MOTION TO COMPEL WITHOUT PREJUDICE

OCTOBER 7, 2026

On September 17, 2026, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Newark Unified School District, called Newark Unified. On October 2, 2026, Newark Unified filed a Notice of Insufficiency as to Issues 2B, 3, 5, 11, and 12 of 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).

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, called 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 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 Individuals with Disabilities Education Act, called 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 filed an 118-page complaint covering the initial six month period when Student enrolled into Newark Unified. Student transferred into Newark Unified as an incoming Student with an individualized education program, called IEP, on December 18, 2025, with a start date of January 6, 2026. Newark Unified developed an initial IEP amendment on January 9, 2026, and held a 30-day IEP team meeting on February 10, 2026. Newark Unified also held IEP team meetings on February 24, April 1, May 20, May 27, May 29, and June 3, 2026.

Student's complaint alleges 22 issues with subparts, detailed on pages 77 through 118. The issues are largely repetitive and often cite to incorrect law. Newark Unified asserts Issues 2B, 3, 5, 11, and 12 of the complaint are unclear, ambiguous, confusing and/or do not explain how they constitute FAPE claims.

Some issues are deemed sufficient as Newark Unified did not raise them in its motion within 15 days. Some issues are insufficient. The issues are discussed below.

ISSUE 2B

Newark Unified asserts that this allegation is unclear and does not pertain to the identification, evaluation, or educational placement of the child, or the provision of a FAPE.

Issue 2B asserts Newark Unified failed to enroll Student in a seventh-grade general education elective course with choice option in violation of its school

accountability report card and approved instructional material. Student asserts the elective was mischaracterizing core English language arts instruction denying Student access to middle school electives. Student asserts he should be guaranteed equal access to nonacademic and extracurricular courses. Student asserts not offering him his preferred choice elective violates a required course of study for grades 7 through 12, including electives. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.117; Ed. Code, § 51220.)

These do not constitute IDEA claims. Newark Unified denied Student's top choice for an elective in general education over a different elective in general education is not within the jurisdiction of OAH. Student asserts he was denied equal access to his preferred elective, which is not an IDEA claim. Additionally, California Education Code section 51220, which does not apply to special education cases. This issue is unclear as to how it pertains to the identification, evaluation, or educational placement of the child, or the provision of a FAPE. Therefore, Issue 2B is insufficiently pled.

ISSUE 3

Newark Unified asserts that Issue 3 does not pertain to the identification, evaluation, or educational placement of the child, or the provision of a FAPE.

Student's opposition to the notice of insufficiency states that Newark Unified did not allow him to enroll in his first choice general education elective, and instead enrolled him in an English language development, called ELD, class which denied him equal access to general education electives. Student also supplies chronological dates which conflict with those listed in the original complaint.

Issue 3 asserts generally that Newark Unified failed to provide a copy of and implement district-adopted general education curriculum to Student, failed to offer scaffolding and specialized academic instruction in his special education classes. It

claims Newark Unified failed to provide meaningful access to general education curriculum in his special education classes based on the state's academic content standards which required instruction be aligned with state academic content standards.

Issue 3A asserts Newark Unified failed to implement general education curriculum in his moderate to severe special day classes so he could make meaningful progress in general education. (34 C.F.R. § 300.320; Ed. Code, § 51220.)

Issue 3B asserts Newark Unified implemented modified curriculum and unconsented instructional tools instead of general education curriculum in his special education curriculum without parental consent. (Ed. Code, § 56346.)

Issue 3C alleges Newark Unified failed to offer essential scaffolding accommodations to enable Student to access general education curriculum in his special education classes.

Issue 3D alleges Newark Unified failed to offer push in specialized academic instruction in his special education classes which did not provide qualified instruction.

Issue 3E asserts Newark Unified failed to supervise its paraprofessional aides and allowed them to modify assignments and assist Student without a credentialed teacher present in all his classes. (Ed. Code, §§ 45330, subd. (a), 45344.)

Issue 3F asserts Newark Unified failed to provide course outlines, teacher lesson plans, and weekly topic agendas to an undisclosed entity. This is not an IDEA claim.

The allegations in Issue 3 are unclear. Issue 3 appears to allege that Student should have been provided district-approved curriculum, not the curriculum appropriate for his IEP. Additionally, Issue 3 is confusing and internally inconsistent as it alleges both sides of the argument, that he should be given general education curriculum without

modifications in all his special education classes, and also that he should be given modified curriculum in his special education classes. This issue is vague and confusing, and does not provide Newark Unified with sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

ISSUE 5D

Newark Unified asserts Student's allegation that it did not provide complete copies of Student's educational records within statutory timelines does not explain its connection to a FAPE violation.

Issue 5D alleges Newark Unified failed to provide:

- related service logs for every service,
- the method of data collection,
- records of all formal and informal assessments,
- copies of each assignment Student was given,
- copies of his teacher's gradebooks,
- copies of records relating to each consented to goal and proposed goal,
- written schoolwork completed by Student used to measure his progress,
- the specific prompts Student was given for each assignment,
- reasonable explanations of his educational records,
- progress reports of data collection,
- copies of report cards and all gradebook entries,
- Parent the opportunity to observe Student in his current program and proposed programs, and
- requested records for an inclusion specialist to conduct an assessment.

The complaint does not identify when Parent purportedly requested these records. This issue is unclear as to how Parent not having copies of every school assignment Student received, copies of the teacher's grade book, and the inability of Parent being able to observe his educational program pertains to the identification, evaluation, or educational placement of the child, or the provision of a FAPE.

ISSUE 11

Newark Unified asserts that Issue 11 is insufficient because it is unclear and did not explain how these allegations are within OAH's jurisdiction.

Issue 11 alleges Newark Unified failed to provide core curriculum materials to Parent for school and home use, and cites non-IDEA law. It alleges Newark Unified failed to provide individual copies of core curriculum, textbooks, and materials across all core subjects, and thus failed to implement Student's IEP accommodations in which he was required to receive those copies. It alleges Parent was not allowed to inspect those primary and supplementary materials provided to general education students. It also alleges Parent was not allowed to inspect the course outlines, teacher lesson plans, descriptions of assessments, and achievement levels of challenging state academic standards for all of Student's special day class courses. It alleges Newark Unified failed to implement scaffolding accommodations so Student could access the general education curriculum. It alleges Newark Unified failed to offer direct specialized academic instruction in non-academic settings. Finally, it asserts that Newark Unified failed to supervise its instructional aides and allowed them to modify coursework without a credentialed teacher.

This issue is unclear as to how Parent's not having core curriculum materials, course outlines, and teacher lessons plans and more, pertains to the identification, evaluation, or educational placement of the child, or the provision of a FAPE. As a result, Newark Unified does not have an awareness and understanding of the issues forming the basis of the complaint.

ISSUE 12

Newark Unified asserts that Issue 12 is insufficient because it is unclear and did not explain how these allegations are within OAH's jurisdiction.

Issue 12 asserts Newark Unified denied Student a FAPE by failing to provide Student with access to general education curriculum so Student could make progress in the general education curriculum. It cites to general law regarding IEPs and to California requirements for general education students.

This issue is unclear as to how it pertains to the identification, evaluation, or educational placement of the child, or the provision of a FAPE. It is also vague and confusing, and does not provide Newark Unified with sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

CONCLUSION

The complaint fails to provide Newark Unified with the required problem description and the facts relating to the problem as to Issues 2B, 3, 5, 11, and 12 of the complaint. Therefore, Student has failed to state sufficient facts supporting these claims, and these claims are deemed insufficient.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Issues 2B, 3, 5, 11, and 12 of the complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. The remaining issues in the complaint are deemed sufficient as Newark Unified did not challenge their sufficiency within 15 days, pursuant to title 20 United States Code section 1415(b)(7)(A)(ii).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on the remaining issues in Student's complaint.
6. The parties' October 6, 2026 joint motion for a mediation and continuance of the due process hearing is denied without prejudice and may be renewed after Student files an amended complaint.

7. Student's September 23, 2026 motion to compel production of witnesses is denied without prejudice and may be refiled after Student files an amended complaint.

Deborah Myers Cregar

Deborah Myers-Cregar
Administrative Law Judge
Office of Administrative Hearings