BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TURLOCK UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021030376

# ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT, IN PART

MARCH 16, 2021

On March 8, 2021, Student filed with the Office of Administrative Hearings, a Due Process Hearing Request, called a complaint, naming Turlock Unified School District. On March 16, 2021, Turlock filed a Notice of Insufficiency as to Issue 7 in 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 a resolution session 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.)

Issue 7 in Student's complaint is not sufficient. While the issue describes a problem related to Turlock's motives in requesting an individualized education program team meeting in February 2021, the complaint fails to include any facts related to this problem. Further, the complaint does not include a proposed resolution related to this problem. Therefore, Issue 7 does not contain enough information for Turlock to have an

awareness and understanding of the issue so that it may prepare for a resolution session or mediation.

## ORDER

1. Issue 7 in Student's complaint is insufficiently pled under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Student may file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii) and must be filed no later than 14 days after the date of this Order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to timely file an amended complaint, the due process hearing will proceed only on Issues 1, through 6, in the complaint.

IT IS SO ORDERED.

*Tara Doss*

Tara Doss

Administrative Law Judge

Office of Administrative Hearings