BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023020832

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

MARCH 14, 2023

On February 24, 2023, 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 Sacramento City Unified School District. On March 10, 2023, Sacramento City 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.)

The facts alleged in Student's complaint are sufficient. Student's complaint identifies four issues and adequate facts about the problem to permit Sacramento City to respond and participate in a resolution session and mediation. Issue one alleges

Sacramento City denied Student a free appropriate public education, referred to as FAPE, by failing to timely and/or appropriately assess Student in all areas of suspected disability. In support of this issue, Student alleges Student did not make meaningful progress, thereby triggering Sacramento City's obligation to assess Student in the areas of mental health, psycho-educational, academics, and health. As a proposed resolution, Student seeks independent educational evaluations at public expense. Issue one includes typographical and formatting errors. However, taken as a whole, issue one meets the standards for sufficiency.

Issue two alleges Sacramento City failed to design an appropriate program to meet Student's needs. In support of issue two, Student asserts Student's individual education programs, referred to as IEPs, were not designed to meet Student's needs in the areas of reading comprehension, essay writing, math, task completion, and attendance. As a resolution, Student seeks compensatory education. Issue two includes one IEP outside of the two-year statute of limitations, but two other IEPs are within the statute of limitations. Issue two is somewhat redundant in that it discusses topics addressed in other issues, such as assessments and parent participation. However, issue two meets the minimum standards for sufficiency by alleging Sacramento City failed to design an appropriate program to meet Student's needs in the IEPs dated December 7, 2021, and December 19, 2022, by failing to address Student's needs in the areas of reading comprehension, essay writing, math, task completion, and attendance. The parties may clarify this issue further at the prehearing conference.

Issue three alleges Sacramento City failed to provide services consistent with Student's IEP. In support of issue three, Student asserts Sacramento City provided only six of 33 occupational therapy sessions offered to Student, and failed to implement co-taught classes of English language arts and mathematics. As a resolution, Student seeks

an order directing Sacramento City to implement Student's IEP by placing him in co-taught English language arts and mathematics classes, and providing staff training on implementing IEPs. Issue three is sufficient.

Issue four alleges Sacramento City significantly impeded Parent's right to participate in the IEP process. In support of issue four, Student argues Sacramento City changed Student's placement outside of the IEP process without parent consent and failed to provide prior written notice when it provided push-in services in lieu of providing co-taught classes. Student also alleges Parent requested a copy of Student's records, and Sacramento City denied Parent's right to participate in the IEP process by providing some, but not all, of the requested records. As a resolution for issue four, Student seeks a complete copy of his educational records. Issue four is sufficient. The parties may discuss at the prehearing conference whether those aspects of issue four relating to the co-taught classes should be combined with issue three.

Therefore, Student's statement of the four 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.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings