BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

BURBANK UNIFIED SCHOOL DISTRICT, LOS ANGELES UNIFIED SCHOOL DISTRICT, RIALTO UNIFIED SCHOOL DISTRICT, LANCASTER UNIFIED SCHOL DISTRICT, AND SOUTH WITTIER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021010028

# ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JANUARY 8, 2021

On January 4, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Burbank Unified School District, Los Angeles Unified School District, Rialto Unified School District, Lancaster Unified School District, and South Whittier Unified School District. On January 7, 2021, Rialto Unified School District filed a Notice of Insufficiency as to the complaint.

## APPLICABLE LAW

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.)

## DISCUSSION

Rialto challenged Student's complaint on the grounds that sufficient facts were not alleged to establish jurisdiction. Rialto argued that the complaint alleged claims that occurred during the 2014-2015 school year and that the IDEA states a due process complaint is timely if filed within two years of the date that the parent knew or should have known about the action forming the basis for the complaint. Rialto asserted that Student did not allege facts to establish an exception to the statute of limitations and as a result, it is prejudiced.

The facts alleged in Student's complaint are sufficient. Student claimed that during the 2014-2015 school year Rialto denied her a free appropriate public education. Student argued that school records demonstrated a lack of progress in all education areas. Student alleged that she had low test and quiz scores, demonstrated inattention and off-task behavior, and her report cards showed she was below the basic standard of performance in every area. Student claimed that although Rialto provided intervention in the form of a small group setting, it failed to identify Student as a child with suspected disabilities and failed to assess Student. Claims alleging a FAPE denial are within OAH's jurisdiction. Further, Student's complaint identifies the issues and adequate facts about the problem to permit Rialto to respond and participate in a resolution session and mediation.

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.

*Marlo Nisperos*

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings