BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

RINCON VALLEY UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023090321

ORDER DETERMINING COMPLAINT SUFFICIENT

SEPTEMBER 29, 2023

On September 12, 2023, Parents on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Rincon Valley Union School District as the respondent. On September 27, 2023, Rincon Valley Union filed a notice of insufficiency.

RICON VALLEY UNION FILED A TIMELY NOTICE OF INSUFFICIENCY

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).) Here, Rincon Valley Union filed a timely notice of insufficiency as it was filed within 15 days of receiving the complaint.

STUDENT'S COMPLAINT IS SUFFICIENT

Rincon Valley Union asserts that Student's complaint is insufficient because the issues are vague and confusing and the facts fail to clarify the issues thus, it cannot adequately respond to the complaint and prepare and participate in the due process hearing. Specifically, Rincon Valley Union maintains that Student failed to specify which individualized education program, called IEP, offers denied Student a free appropriate public education, called FAPE for 2022-2023 school year.

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

considering 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.)

Student pled six issues in the complaint, all of which are sufficient. The issues are discussed below.

Student's issue number one states, "Did The Rincon Valley Union Elementary School District ("District") Deny Student A FAPE In The 2022-2023 School Year By Failing To Offer Sufficient Intensive Individual Services In The Form Of A 1:1 Aide Following His Enrollment During The 2022-2023 School Year?" Below Student's issue statement, it refers to the April 17, 2023 IEP with facts related to this IEP, arguing that this information placed Rincon Valley Union on notice of Student's need for a one-to-one aide. Thus, Student's issue one provides sufficient facts to place Rincon Valley Union on notice and allow it to adequately prepare for mediation, due process hearing, and to defend itself.

Student's issue two states "Did District Deny Student A FAPE By Failing To Develop An IEP That Was Reasonably Calculated To Enable Student To Receive Educational Benefits by Failing To Provide Adequate Goals Following His Enrollment During The 2022-2023 School Year?" Beneath the issue statement, Student lists the goals in the April 17, 2023 IEP at issue, occupational goals one and two; speech goals

one and two; physical therapy goals one and two; classroom goals one, two, and three; and adaptive physical education goal one, and claims the goals are inadequate and unambitious. Thus, Student pled adequate facts to give Rincon Valley Union an awareness of the issue and IEP goals at issue to defend itself and participate in this matter. Accordingly, Student's issue two is sufficient.

Student's issue three states "Did District Deny Student a FAPE by Failing to Offer Home ABA Behavior Therapy Program Following His Enrollment During the 2022-2023 School Year?" Student argues just below that issue statement that the information contained in the April 17, 2023 IEP, which Student summarized, placed Rincon Valley Union on notice that he needed home based ABA services in the form of behavior therapy and clinical meetings. Thus, Student's issue three contains sufficient facts, to allow Rincon Valley Union to defend itself and prepare for mediation and due process hearing. Accordingly, Student's issue three is sufficient.

Student's issue four states "Did The District Deny Student A FAPE Following His Enrollment During the 2022-2023 School Year By Failing To Offer Parent Training In S/L and Behavior?" Below this issue statement, Student refers to the April 17, 2023, and information contained in the IEP and argues that this should have placed Rincon Valley Union on notice of Parent's problem with Student at home regarding his behavior and speech and language. Thus, Student's issue four contains sufficient facts to give Rincon Valley Union and awareness of this issue so that it can participate in this matter and defend itself. Thus, Student's issue four is sufficient.

Student's issue five states "Did District Deny Student a FAPE by Failing To Offer Placement With Neuro-Typically Developing Peers To The Maximum Extent Possible Following His Enrollment During the 2022-2023 School Year?" Student explains below the issue statement that the April 17, 2023 IEP, Rincon Valley Union offered Student

placement in a special day class for 80 percent of the time and that it should have known that this was not the least restrictive environment for Student. Student's issue five provides Rincon Valley Union adequate information of this issue, to proceed in this matter and participate in mediation and due process hearing. Accordingly, Student's issue five is sufficient.

Student's issue six states "Did District Deny Student a FAPE By Failing To Allow Parent Meaningful Participation in the IEP Process At The 4/17/2023 IEP, by Ignoring Parent's Requests, Thereby Offering A Pre-determined IEP by Ignoring Parent's Request For a 1:1 Aide Support in Order for Student to Access Increased Time Spent in the General Education Classroom?" While the issue statement is difficult to read, Student adequately sets forth its allegation that Rincon Valley Union denied Student a FAPE by failing to allow meaningful participation in the decision-making process at the April 17, 2023 IEP team meeting. Thus, Student's issue six is sufficient and provides adequate notice of the issue to Rincon Valley Union.

While Student set forth numerous information, including a reference to a 2022 IEP in the section titled "Placement After Reopening Of School", Student's issue statements and description in support of the issues only refers to the April 17, 2023 IEP, and facts associated with this IEP. Thus, Student makes clear that the April 17, 2023 IEP offer is the only IEP at issue in this matter. For all these reasons, Student's complaint 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.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings