BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021050169

ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT

MAY 19, 2021

On May 6, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District as respondent. On May 18, 2021, Los Angeles filed a Notice of Insufficiency as to the complaint alleging that Student's Issue Number Two, which relates to an expedited hearing claim lacks information regarding where Student was during the time he was not enrolled in a Los Angeles school. Los Angeles further complains that the complaint generally lacks specificity as to when Student was the responsibility of Los Angeles Unified School District from March 2019 through the 2020-2021 school year.

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).

EXPEDITED HEARINGS

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. Specifically, an expedited hearing can be requested to appeal to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing start within 20 school days from the hearing request. There is no provision for testing the complaint's sufficiency in expedited hearings under section 1415(k) to. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

Here, Los Angeles asserts that Student's expedited claim in issue 2(a) is insufficient as the reason or agency that changed Student's placement and the placement to which Student was sent are not identified. However, the Individuals with Disabilities in Education Act, or IDEA, does not provide for an NOI process related to an expedited claim. Thus, the sufficiency of Student's assertions regarding the expedited claim will not be addressed by this order. The non-expedited aspects of Issue Number Two are addressed below.

REQUESTS FOR DUE PROCESS THAT DO NOT RAISE EXPEDITED CLAIMS

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.)

Here, Student's complaint alleges enough information to give Los Angeles notice of the claims alleged against it. It offers the information required by the IDEA, including

the name, residence and school attended by Student. Los Angeles acknowledges the complaint offers adequate facts to meet the special education due process pleading standard. While Los Angeles identifies concerns about Student's request for due process which may form the basis for defenses to Student's claims, those concerns do not amount to insufficiencies in the complaint.

ORDER

1. Student's allegations in issues 1, 2(b), 3 and 4 of the complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Student's allegations in issue 2(a) of the complaint state an expedited claim that is not subject to a notice of insufficiency. The expedited portion of this request for due process shall proceed as stated in the May 7, 2021 Scheduling Order.
3. The case shall proceed as stated in the May 7, 2021 scheduling order.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings