BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SEQUOIA UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023110714

# ORDER DETERMINING NON-EXPEDITED DUE PROCESS COMPLAINT ALLEGATIONS SUFFICIENT

DECEMBER 6, 2023

On October 5, 2023, Sequoia Union High School District filed a request for due process hearing, called a complaint with the Office of Administrative Hearings, called OAH, naming Student as respondent. On November 21, 2023, Student filed a complaint with OAH, naming Sequoia as respondent. Student's case alleged issues that require an expedited hearing and decision, pursuant to United States Code, title 20, section 1415(k), as well as issues that are not required to be determined on an expedited basis. Student filed a request to consolidate the cases that same day.

On December 1, 2023, Sequoia filed a Notice of Insufficiency as to Student's complaint, combined with a motion to dismiss, a motion to unexpedite, a motion to

consolidate, and a motion to continue. Sequoia dismissed its case on December 4, 2023. Sequoia's motions to dismiss, unexpedite, consolidate, and continue are the subject of a separate order.

## APPLICABLE LAW

### EXPEDITED CLAIMS

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 under section title 20, United States Code section 1415(k), to test the sufficiency of expedited claims. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

In this case, Student states 24 "contentions" using ordinal references. The issues will be referred to sequentially by number. In this complaint, Student alleged the following expedited claims:

Issue 19: NATURE OF THE PROBLEM: District misrepresented the facts and circumstances surrounding the April 28, 2023, incident at Student's May 8, 2023, Manifestation Determination Meeting significantly impeding PARENT'S ability to meaningfully participate.

Issue 20: NATURE OF THE PROBLEM: District denied Student his procedural rights at his May 8, 2023, Manifestation Determination meeting when DISTRICT failed to

provide PARENT documents and video recordings necessary for Student's advocacy before or during the meeting.

Issue 21: NATURE OF THE PROBLEM: District denied Student his procedural rights at his May 8, 2023, Manifestation Determination meeting when District precluded a discussion of the impact their failure had on the April 28, 2023, incident.

## NON-EXPEDITED CLAIMS

The named parties have the right to challenge the sufficiency of claims not subject to expedited procedures. (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.] 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 46541, 46699.)

## SUFFICIENCY DETERMINATION

Citing to a number of District and Superior court cases, Sequoia labels Student's request for due process hearing a "shotgun pleading." Sequoia offers no legal authority supporting the assertion that the pleading rules declared in those cases apply to a special education request for due process hearing.

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) All that is required in a due process hearing complaint is a description of the nature of the problem of the child related to the proposed initiation or change to the child's identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).)

Sequoia objects that each of Student's issues incorporate all facts previously pled by reference. In the particular circumstances of this case, the individual issue statements are adequately clear and detailed to allow Sequoia to understand the claims being asserted against it. The issue statements include statements of fact. Sequoia has

offered no legal authority stating that Student must allege every fact in a request for due process hearing in order for the complaint to be sufficient. The non-expedited issue statements themselves are sufficiently detailed that they give Sequoia the ability to prepare for resolution session, mediation and hearing, notwithstanding their references to other statements in the complaint. Therefore, Student's statement of issues number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, and 23 are sufficient.

## NO DETERMINATIONS REGARDING STATUTE OF LIMITATIONS OR JURISDICTIONAL CONCERNS

Sequoia also complains that Student's complaint includes facts alleging incidents that occurred outside the statute of limitations; as well as incidents of discrimination, police misconduct, defamation and other wrongdoing outside OAH's jurisdiction. These contentions are not within the scope of a challenge to the sufficiency of the complaint. This sufficiency determination does not decide Sequoia's motion to dismiss claims. Sequoia may file a separate motion addressing those concerns.

## PROPOSED RESOLUTIONS MEET STATUTORY REQUIREMENT

A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) Student has met the statutorily required standard regarding proposed resolutions. Whether the proposed resolutions properly remedy any special education shortcomings proved is a matter to be determined at hearing.

## ORDER

1. The sufficiency of Student's issues 19, 20 and 21 is not determined here as those issues are subject to the expedited procedures mandated by title 20, United States Code, section 1415(k).
2. The non-expedited issues of the complaint, specifically, issues 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, and 23 are sufficient under title 20 United States Code, section 1415(b)(7)(A)(ii).
3. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

*Penelope Pahl*

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings