BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BUCKEYE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025050404

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY INSUFFICIENT

MAY 30, 2025

On May 9, 2025, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, naming Buckeye Union School District, called Buckeye Union. The Office of Administrative Hearings is called OAH. On May 29, 2025, Buckeye Union filed a notice of insufficiency as to the complaint.

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).)

Under California law, in case of service by mail, the pleading shall be deposited in a post office or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage prepaid, addressed to the person on whom it is to be served. (Code Civ. Proc., § 1013, subd. (a).) Service is complete at the time of the deposit, but any duty to do any act or make any response within any period prescribed by statute or rule of court, shall be extended by five calendar days if the place of address and mailing is within the state of California. (*Id.*)

Student filed the complaint with OAH on May 9, 2025. Student's proof of service indicates she served the complaint on Buckeye Union on May 9, 2025, by United States Postal Service Priority Delivery. Buckeye Union filed its notice of insufficiency on May 29, 2025, which date was 15 days from Student's service of the complaint by mail. Buckeye Union's notice of insufficiency therefore was timely filed

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, called FAPE; (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 Individuals with Disabilities Education Act, called 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's complaint alleges 16 claims, identified in Paragraphs A through P of the complaint, some of which are sufficient and some which are insufficient. The issues are discussed below.

The 16-page complaint contains a litany of grievances by Parents relating to Student's educational background. It is impossible from reviewing the complaint to determine all the problems relating to the identification, evaluation or educational placement or the provision of a FAPE, Student seeks to have OAH address. The complaint sets forth a long history of events, which fails to provide complete awareness and understanding of the scope of the issues forming the basis of the complaint to allow Buckeye Union to properly prepare for a resolution session, mediation, or a due process hearing. Among other things, the complaint generally alleges Buckeye Union

has committed various procedural and substantive violations but does not clearly specify the procedural and substantive violations. Some of the claims have been sufficiently pled and others are insufficient.

Issue A alleges Buckeye denied Student a FAPE during the 2023-2025 school years by failing to "provide" Student with an education reasonably calculated to enable Student to make appropriate progress considering her circumstances. It is unclear if Student is making a failure to implement claim or a failure to offer claim. Student also fails to identify the individualized education program, called IEP, at issue and the type of services, supports, and accommodations Student claims were inadequate. Student should clearly state whether she is making an implementation claim, or a failure to offer claim, and specify the IEP at issue. To the extent Student believes the services, supports, and accommodations offered were inadequate, Student is required to specify which services, supports, and accommodations she is claiming were inadequate and the reasons why.

Issue A also refers to the inability of Student to "access assessments." This allegation is vague. It is unclear if Student contends Buckeye Union failed to assess Student, and in which areas, or if Buckeye Union conducted assessments but they were legally insufficient. Issue A should be clarified to explain why she believes Buckeye Union failed to assess or failed to adequately assess Student, and should allege specific facts to support her claim.

Finally, Issue A alleges Student's IEP does not contain measurable and objective goals. Issue A fails to specify which IEP or IEPs did not contain adequate goals, and in which areas of need. Issue A should be revised to identify the specific IEPs and goals or areas of needs that are being challenged.

Issue B alleges Buckeye Union failed to materially and appropriately provide Student with meaningful education benefit. Issue B is vague and ambiguous. It is unclear whether Student is challenging the appropriateness of a FAPE offer, or a failure of Buckeye to implement an IEP. Again, Issue B fails to identify any specific IEP or IEPs or explain what type of service or support was lacking. To the extent Student believes that Buckeye Union failed to offer inadequate services, Student is required to specify which services were inadequate and why. If Student alleges Buckeye failed to materially implement an IEP, Student should identify the IEP and explain which service or support was not implemented, and for what period.

Issue C alleges Buckeye Union failed to develop an IEP that contained appropriate measurable goals and progress reports. Issue C should specify which IEP or IEPs Student is challenging, and which goals or areas of need. As pled, the allegations are insufficient to allow Buckeye Union to properly prepare for a resolution session, mediation, or a due process hearing.

Issue D alleges that Student's IEPs were not implemented. However, it is unclear which IEPs were not implemented and for which school years. Issue D should specify which IEPs were not implemented, which specific services or supports were not provided, and during which school year.

Issues E and F allege Buckeye Union ignored Parents' written or verbal requests for special education eligibility and assessments from 2023 through 2025. These issues are vague and overbroad. Issue E should include facts specifying when Parents made requests for Student to be evaluated and in what areas. If Student is alleging that Buckeye Union assessed Student but the assessment was legally insufficient, Student should explain when the assessment occurred, in what area, and why Student believes the assessment was legally insufficient.

Issues H and I allege Buckeye Union failed to allow Parents' meaningful participation in development of Student's IEPs. Issue H is unclear because it does not specify which IEP or IEPs Parents claim they were denied meaningful participation or include facts describing how Parents' ability to participate was meaningfully impeded. Issue I references incidents of bullying of Student, but does not provide any details about the nature of the incidents, including when they occurred, the nature of the incidents, how Buckeye Union responded, and which IEP team meetings addressed the bullying incidents.

Issue J alleges that Buckeye Union predetermined Student's IEPs. Issue J is vague because it does not specify which IEPs Parents allege were predetermined, or state facts explaining how the IEPs were predetermined. Issue J should be clarified to identify the IEP or IEPs that Student contends were predetermined and state facts explaining how the IEPs were predetermined.

Issue K alleges that Buckeye Union failed to offer Student an IEP that addressed her needs in academics, social-emotional, and safety during 2023-2025. Issue K is vague because it does not specify the IEP or IEPs at issue. To the extent Student believes that Buckeye Union failed to offer adequate accommodations, services, and supports, Student is required to specify which accommodations, services, and supports were inadequate and why.

Issues M and N are insufficiently pled. Issues M and N allege Student was bullied and Buckeye Union failed to provide a safe environment for Student or provide emergency reports to Parents. Issues M and N are vague because they fail to allege facts about the bullying incidents, including the nature of the incidents, when they occurred, and how Buckeye Union failed to provide a safe environment for Student.

Issue O alleges that Buckeye Union failed to make an appropriate placement offer between 2023 through 2025. Student fails to identify relevant the IEP or IEPs. Further, Issue O is vague and confusing about what placement was offered to Student and why it was inappropriate.

Issue P alleges that Buckeye Union failed to fulfill its child find obligation to find Student eligible for special eligibility. Confusingly, the complaint also generally references IEPs during 2023 through 2025. It is unclear whether Student has been found eligible for special education and Student is challenging a failure to assess in all suspected areas of need, or if Student has not been found eligible for special education and should have been. Issue P should be revised to clarify Student's contention.

Issues G and L are sufficiently pled. Issue G alleges Buckeye Union failed to provide a prior written notice in response to Parent's December 2024 request for assessment. Issue L alleges the April 25, 2025, IEP team meeting failed to include all mandatory IEP team members. Issues G and L are sufficiently pled to put Buckeye Union on notice of the problem.

All of Student's claims are insufficient except for Issues G and L. Student is granted leave to amend the complaint to the extent she intends to raise issues beyond those deemed sufficient. The amended pleading shall clearly enumerate all issues at the end of the factual allegations just prior to the proposed resolutions, and for each issue or sub-issue where applicable, identify the IEP at issue and separately state each component Student is challenging, including the specific service or support or procedural violation, in addition to correcting the deficiencies discussed above.

ORDER

1. Student has failed to sufficiently allege Buckeye Union denied her a FAPE in Issues A, B, C, D, E, F, H, I, J, K, M, N, O, and P.
2. Student has sufficiently alleged Buckey Union denied her a FAPE in Issues G and L.
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and the instructions in this Order and shall be filed not later than 14 days from the date of this Order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only as to Issues G and L.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings