BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VICTOR VALLEY UNION HIGH SCHOOL DISTRICT AND OPTIONS FOR YOUTH-VICTOR VALLEY CHARTER SCHOOL.

OAH CASE NUMBER 2023080895

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT AS TO OPTIONS FOR YOUTH

SEPTEMBER 8, 2023

On August 23, 2023, Parents on behalf of Student, filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Victor Valley Union High School District and Options for Youth-Victor Valley Charter School. On September 6, 2023, Options for Youth Charter School, called Options for Youth, filed a notice of insufficiency as to the complaint.

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).

OPTIONS FOR YOUTH FILED A TIMELY NOTICE OF INSUFFIIENCY

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).) Options for Youth timely filed its notice of insufficiency within 15 days of receiving the complaint.

STUDENT'S COMPLAINT IS SUFFICIENT AS TO OPTIONS FOR YOUTH.

Options for Youth contends that Student's complaint is insufficient because: Student failed to identify specifically how Options for Youth was responsible for the issues; the specific period each respondent was responsible for FAPE, and that the complaint contains contradictory allegations and facts.

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's complaint describes three sufficiently pled claims. Student's complaint alleges three issues against Victor Valley Union High School District and Option For Youth, which are collectively referred to as the respondents. The complaint asserts that the respondents denied Student a free appropriate public education, called FAPE, from August 23, 2021 to the present by:

1. failing to assess;
2. failing to develop and implement an individual educational program, called IEP, uniquely tailored, and reasonably calculated to provide FAPE; and
3. violating Parent's rights to meaningful participation.

STUDENT DESIGNATED THE FAPE RESPONSIBILITY PERIOD OF EACH RESPONDENT.

In the complaint, footnote three, when referring to the issues, Student particularizes the FAPE responsibly period for the separate respondents. Student states: "[Student] was enrolled in Victor Valley Union High School District from roughly August 14, 2021, until August 11, 2022, and she enrolled in Options for Youth Charter from approximately August 18, 2022, through May 22, 2023. As of August 7, 2023, [Student] re-enrolled at Silverado High School in Victor Valley. The periods of accountability for each Respondent correspond with the dates of her respective enrollment. Thus, Options for Youth's argument that Student's complaint is vague as to the specific period of FAPE responsibility for each respondent fails.

STUDENT'S ISSUE ONE IS SUFFICIENT

As to Student's issue one, Student alleges that Options for Youth failed to timely and comprehensively assess Student in all areas of suspected disability to determine her educational needs. Student maintains was never assessed at any time in high school. Because of this, Student requests, at a minimum, independent educational assessments in psychoeducation or neuropsychology, social-emotional with educationally related intensive counseling consideration, speech and language, functional behavior, occupational therapy, and transition.

Here, Student's complaint adequately identifies issue one and provides adequate supporting information to permit Options for Youth to defend itself in this matter and participate in resolution session, mediation, and the due process hearing. Student's issue one is sufficient.

STUDENT'S ISSUE TWO IS SUFFICIENT

In Student's issue two, Student alleges that Options for Youth failed to develop and implement, and individualized education program uniquely tailored and reasonably calculated to confer meaningful educational benefits to Students. Specifically, Student maintains Options for Youth failed to provide: an appropriate placement; an individual transition plan; appropriate academic, social-emotional, and speech and language supports and services; and ensure she made reasonable progress.

Student's complaint sufficiently identifies issue two and provides enough information to permit Options for Youth to participate in resolution session, mediation, and the due process hearing, and the ability to defend itself. Student's issue two is sufficient.

STUDENT'S ISSUE THREE IS SUFFICIENT

Student's issue three asserts that Options for Youth denied Student a FAPE by violating Parent's right to meaningful participation in the educational decision-making process by predetermining Student's offer when it failed to consider other options, offered minimum levels of supports and services, did not welcome Parent input, and did not engage in meaningful discussion with Parent. Additionally, Student asserts Options for Youth failed to timely provide Parent a full and complete copy of Student's educational records, after her request on July 13, 2023, thus, further denying meaningful parental participation.

Student's complaint satisfactorily identifies issue three and provides sufficient facts for Options for Youth to participate in the due process hearing process, including resolution session and mediation. Accordingly, Student's issue three is sufficient.

Student also set forth sufficiently clear proposed resolutions. For all these reasons, Student's complaint as to Options for Youth is sufficient.

ORDER

1. Student's complaint is sufficiently pled under section title 20 United States Code 1415(b)(7)(A)(ii) as to Options for Youth.
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings