

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

SPENCER VALLEY ELEMENTARY
SCHOOL DISTRICT,

OAH Case No. 2014110312

SPENCER VALLEY ELEMENTARY
SCHOOL DISTRICT

v.

PARENT(S) ON BEHALF OF STUDENT.

OAH Case No. 2014100761

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On October 20, 2014, Spencer Valley Elementary School District filed with the Office of Administrative Hearings a Due Process Request¹ naming Parents on behalf of Student as respondent.

On November 2, 2014, Student's father on behalf of Student filed with OAH a Due Process Hearing Request (Student's complaint) naming Spencer Valley Elementary School District as respondent. On November 7, 2014, the parties stipulated to consolidate the two cases. OAH, on November 12, 2014, ordered the two cases consolidated with Student's complaint (OAH case number 2014110312) as the primary case.

On November 18, 2014, Spencer Valley filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² 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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.³ 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.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ 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.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

² 20 U.S.C. § 1415(b) & (c).

³ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁷ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

Father's complaint contains a single issue: Did Spencer Valley deny Student a free appropriate public education "by denying Father the opportunity to engage in meaningful participation in the Individualized Education Program (IEP) process"? The complaint lists nine examples of Spencer Valley's actions, including failing to provide Father with evidence of a diagnosis of Student with autism; providing services to Student without obtaining Father's consent; holding an "informal" meeting with the IEP team on September 19, 2013 without complying with IEP requirements; failing to provide Father with complete records involving Student; and holding an IEP meeting on March 11, 2014, without Father being present.

Father alleges that Student's parents are divorced and that she resides with both parents alternatively. Both parents retain educational rights pursuant to Family Court orders. Father is contending that Spencer Valley is denying Student a FAPE by its denial of giving Father an opportunity to meaningfully participate in the IEP decision-making process.

In its NOI, Spencer Valley mistakenly contends that Father's complaint is not sufficient by interpreting Father's claim as a substantive claim rather than a procedural violation of the IDEA—preventing Father from participating in the IEP decision-making process in a meaningful manner.

The facts alleged in Father's complaint are sufficient to put Spencer Valley on notice of the issues forming the basis of the complaint. Father's complaint identifies the issues and adequate related facts about the problem to permit Spencer Valley to respond to the complaint and participate in a resolution session and mediation.

Therefore, Father'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.

DATE: November 20, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings