

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT.

OAH Case No. 2016010901

ORDER DETERMINING DUE  
PROCESS HEARING REQUEST TO BE  
INSUFFICIENT

On January 27, 2016, Student filed a due process hearing request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Saddleback Valley Unified School District. On February 8, 2016, Saddleback Valley filed a notice of insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 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 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. (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,

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

*supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act 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.)

OAH has jurisdiction over complaints that allege violations of the IDEA. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) OAH does not have jurisdiction to entertain claims based on section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.), or section 1983 of title 42 United States Code (42 U.S.C. § 1983 et seq.).

## DISCUSSION

Student raises five issues in his complaint. The first four issues reference a violation of section 504 of the Rehabilitation Act of 1973. The fifth issue references a violation of the Americans with Disabilities Act. OAH does not have jurisdiction to adjudicate claims based on section 504 and the Americans with Disabilities Act.

Student alleges in the complaint that he has had an individualized education program pursuant to the IDEA since at least 2011, and states facts concerning various IEP team meetings that were held during the time period discussed in the complaint. Student makes conclusory statements about an IEP not being implemented, but then raises the possibility that he did not have an IEP during part of the time period at issue. No reference whatsoever is made to the IDEA in each of the five specific issues raised in the complaint. Therefore, it is impossible for Saddleback Valley to determine which provisions of the IDEA Student claims were violated, how those violations occurred, and whether the violations constituted a denial of a FAPE to Student. Accordingly, all of Student's claims are insufficiently pled since he has failed to provide Saddleback Valley with the required notice of a description of the problem and the facts relating to the problem.

## ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>2</sup>

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

DATE: February 10, 2016

DocuSigned by:



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REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings

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<sup>2</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.