BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GLENDORA UNIFIED SCHOOL DISTRICT AND EAST SAN GABRIEL VALLEY SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2023010295

ORDER FINDING COMPLAINT PARTIALLY SUFFICIENT AND PARTIALLY INSUFFICIENT

JANUARY 24, 2023

On January 6, 2023, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH. Student's complaint named Glendora Unified School District, called Glendora, and East San Gabriel Valley Special Education Local Plan Area, called SELPA. On January 23, 2023, Glendora and SELPA filed a notice of insufficiency as to the complaint, asserting that Student has not clearly designated the alleged responsibilities of each respondent and that the complaint does not state facts sufficient to state a claim.

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 a 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 in light of the broad remedial purposes of the Individuals with Disabilities Education Act, referred to as IDEA, and the relative informality of the due process hearings it authorizes, and 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.)

There is no summary judgment procedure in special education cases. OAH will, however, find complaints alleging cases not within its jurisdiction insufficient. OAH has jurisdiction only over claims alleging the IDEA or California special education laws were violated. Special education due process hearings may involve the parent or guardian, a

student, and the public agency involved in any decisions regarding a pupil. (Ed. Code, § 56501, subd. (a).) A public agency is defined as a school district, county office of education, special education local plan area, or any other public agency providing special education or related services to individuals with exceptional needs. (Ed. Code, §§ 56500 and 56028.5.)

Here, Student alleges that he lives with Parents and attends school within Glendora's boundaries, which identifies Glendora as the local educational agency responsible for Student's educational program. However, Student does not allege facts demonstrating that SELPA provides special education or related services to Student, or is otherwise responsible for Student's educational program. The complaint does not allege how SELPA is a public agency over which OAH has jurisdiction.

However, as to Glendora, Student alleges three claims. Student alleges that all claims are within the period of January 5, 2021, through the filing of the complaint. At Issue 1, Student alleges he was denied a FAPE because during the 2021-2022 and 2022-2023 school year, no teacher was assigned to Student's program and he was not given appropriate curriculum or materials. At Issue 2, Student alleges he was not assessed in all areas of suspected disability, specifically, for vision therapy. At Issue 3, Student alleges that he was denied a FAPE because his individualized education programs, or IEPs, did not offer appropriate supports in several identified areas, and that the services offered were not implemented. The facts alleged in Student's complaint are sufficient as to Glendora. Student's complaint identifies the issues and adequate facts about the problem to permit Glendora to respond and participate in a resolution session and mediation.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) as to Glendora Unified School District.
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed as to Glendora Unified School District.
3. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D) as to East San Gabriel Valley Special Education Local Plan Area.
4. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
5. The amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this order.
6. If Student fails to file a timely amended complaint, the complaint will be dismissed as to East San Gabriel Valley Special Education Local Plan Area, and the hearing will proceed as to Glendora Unified School District.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings