BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CABRILLO POINT ACADEMY AND

EL DORADO COUNTY CHARTER SELPA.

OAH CASE NUMBER 2023030050

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

MARCH 14, 2023

On March 1, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Cabrillo Point Academy and El Dorado County Charter SELPA. On March 13, 2023, Cabrillo Point Academy 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).

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 in light of 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 District* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[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 Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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 Fed.Reg. 46540-46541, 46699.)

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Cabrillo Point Academy to respond and participate in a resolution session and mediation and how to prepare for the hearing.

Cabrillo Point Academy seeks to determine through the Notice of Insufficiency whether Student can prevail on his claims, which Cabrillo Point Academy asserts are barred by a settlement agreement. However, a Notice of Insufficiency is not meant to determine whether a Student can prevail. It is only to determine whether a local educational agency has been provided sufficient information to defend itself. Cabrillo Point Academy makes clear in its Notice of Insufficiency that it understands the two claims Student presents in his complaint well enough to assert its defense and argue in the Notice of Insufficiency that Student cannot prevail on those claims.

Student alleges Cabrillo Point Academy denied him a free appropriate public education by failing to implement Student's February 26, 2021 individualized education program from the start of the 2021-2022 school year through the date Student filed the complaint. Student also alleges Cabrillo Point Academy denied him a free appropriate public education by failing in the April 26, 2021 annual individualized education program to offer him appropriate goals to address foundational reading skills, reading fluency, phonemic awareness, and math calculations; sufficient weekly specialized academic instruction; sufficient speech and language therapy; and sufficient extended school year services. And Cabrillo Point Academy plainly understands Student's allegation and asserts Student's two claims will fail. Cabrillo Point Academy asserts it has a complete defense to Student's two clear claims because on September 28, 2021,

the parties entered into a settlement agreement releasing any and all educationally based claims against Cabrillo Point Academy for the time period during which Student alleges Cabrillo Point Academy denied him a free appropriate public education.

Therefore, Student's statement of the two claims is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings