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 SPECIAL EDUCATION LOCAL PLAN AREA

OAH CASE NUMBER 2023030050

ORDER DETERMINING DUE PROCESS COMPLAINT AS TO SPECIAL EDUCATION LOCAL PLAN AREA INSUFFICIENT

MARCH 20, 2023

On March 1, 2023, Student filed a Due Process Hearing Request, also referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming Cabrillo Point Academy and El Dorado County Charter Special Education Local Plan Area, or SELPA as respondents. On March 16, 2023, El Dorado County Charter SELPA filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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 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.] 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 46541, 46699.)

DISCUSSION

Student has failed to allege any facts in his complaint stating a violation of the Individuals with Disabilities in Education Act, also known as IDEA, or any violation of a California special education law against the El Dorado County Charter SELPA. As a result, the complaint is insufficient as to El Dorado County Charter SELPA as it fails to provide El Dorado County Charter SELPA with an understanding of the claims being asserted against it that would allow the SELPA to prepare a defense.

The single allegation against the charter is, specifically, "The Academy is a member school of the SELPA, which assists the Academy with the provision and coordination of special education services to those students which are eligible." Student alleges no facts describing how that the SELPA was responsible for providing FAPE or that it was involved in decisions regarding this Student's Individualized Educational Program or IEP. While the issues are generally alleged as to "respondents" as a group, no facts are alleged that would allow the El Dorado County Charter SELPA information necessary to prepare for resolution session, mediation or hearing.

ORDER

1. Student's complaint is insufficiently pled against El Dorado County Charter SELPA 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).
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 an amended complaint within 14 days of the date of this order, the complaint will be dismissed as to El Dorado County Charter SELPA and shall proceed only as to Cabrillo Point Academy.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings