

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

EL DORADO COUNTY CHARTER
SPECIAL EDUCATION LOCAL PLAN
AREA, MARICOPA UNIFIED SCHOOL
DISTRICT, SIMI VALLEY UNIFIED
SCHOOL DISTRICT, AND INSPIRE
CHARTER SCHOOL.

OAH Case No. 2018080603

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT AS TO MARICOPA
UNIFIED SCHOOL DISTRICT AND
EL DORADO COUNTY CHARTER
SPECIAL EDUCATION LOCAL PLAN
AREA

On August 14, 2018, Parents on behalf of Student filed a Due Process Hearing Request¹ (complaint) with the Office of Administrative Hearings naming El Dorado County Charter Special Education Local Plan Area, Maricopa Unified School District, Simi Valley Unified School District, and Inspire Charter School.

On August 23, 2018, Maricopa timely filed a Notice of Insufficiency as to Student's complaint.

On August 24, 2018, El Dorado timely 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

¹ 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).

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, *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; *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.)

DISCUSSION

El Dorado and Maricopa contends that the complaint fails to describe facts that relate to or concerns their conduct, and therefore, El Dorado and Maricopa are unable to respond to the complaint. Other than listing El Dorado and Maricopa as respondents, the complaint is absent of any facts describing their alleged violations. Student’s complaint fails to provide El Dorado and Maricopa with the required notice of a description of the problem and the facts relating to the problem, as it falls short of providing a sufficient description of how and when El Dorado and Maricopa failed to meet their obligations under the IDEA and allegedly denied Student a FAPE. Accordingly, the complaint is insufficient as to El Dorado and Maricopa.

Student’s proposed resolutions are requests for behavioral and mental health assessments, increase and modification of services, placement at Grace Brethren School, and compensatory education. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student’s complaint are well-defined and meet the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Student's complaint is insufficiently pled as to El Dorado and Maricopa 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).²

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 hearing shall proceed against Simi Valley and Inspire Charter School only, and El Dorado and Maricopa dismissed as parties.

DATE: August 27, 2018

DocuSigned by:

Rommel P. Cruz
ROMMEL P. CRUZ

ADMINISTRATIVE JUDGE
Office of Administrative Hearings

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