

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

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

OAH CASE NUMBER 2021090263

ORDER FINDING COMPLAINT INSUFFICIENT AS TO
EL DORADO COUNTY CHARTER SPECIAL EDUCATION
LOCAL PLAN AREA

SEPTEMBER 27, 2021

On September 9, 2021, 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 Sonoma Charter School, Sonoma Valley Unified School District and El Dorado Charter Special Education Local Plan Area. Sonoma Charter School will be referred to as Sonoma Charter. Sonoma Valley Unified School

District will be referred to as Sonoma Valley. El Dorado Charter Special Education Local Plan Area will be referred to as SELPA. On September 24, 2021, SELPA filed a notice of insufficiency.

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, 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 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.)

DISCUSSION

Student's complaint alleges that Student's IEPs developed by Sonoma Charter and Sonoma Valley did not address her academic, assistive technology or behavioral needs. Student alleges this was particularly true as to reading and distance learning during the COVID-19 pandemic. Allegedly, Sonoma Charter could not provide Student with the services she needed because it had insufficient SELPA funding.

Issues 1 and 2 allege that Sonoma Charter and Sonoma Valley failed to timely assess Student or provide prior written notice in response to Parents' request for a private reading program. At issue 3, Student alleges that Sonoma Charter and Sonoma Valley interfered with Parents' participation in developing Student's IEP, and made misrepresentations throughout the process. Issue 4 alleges that all three respondents failed to offer Student a FAPE. Issue 5 alleges that Student's IEP was not implemented during the COVID-19 school closures. At Issues 6 and 7, Student alleges that Sonoma Charter and SELPA failed to implement Student's IEP during the 2020-2021 school year, and made unilateral decisions to change how Student would receive services and denied Student a FAPE.

Allegations against SELPA are limited to jurisdictional conclusions that Sonoma Charter and Sonoma Valley are under the umbrella of SELPA, and that somehow both Sonoma Charter and SELPA are local educational agencies responsible for providing educational services to Student. The complaint is devoid of facts describing any action or inaction by SELPA that denied Student a FAPE, or facts

demonstrating that SELPA did, or was required by law to, provide Student with special education or related services.

Therefore, Student failed to state sufficient facts supporting any of the claims as against SELPA.

ORDER

1. Student's complaint is insufficiently pled against El Dorado Charter Special Education Local Plan Area under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed as to El Dorado Charter Special Education Local Plan Area.

5. If Student fails to file a timely amended complaint, the hearing shall proceed on all issues as to Sonoma Charter School and Sonoma Valley Unified School District.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings