BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

EL DORADO COUNTY CHARTER SELPA AND

COMMUNITY ROOTS ACADEMY CHARTER SCHOOL.

OAH CASE NUMBER 2020100158

AND

COMMUNITY ROOTS ACADEMY CHARTER SCHOOL,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020090033

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

OCTOBER 19, 2020

On October 2, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming El Dorado County Charter SELPA and Community Roots Academy Charter School as respondents. On October 16, 2020, El Dorado 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; *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 challenged Student's complaint on the grounds that the allegations did not identify how the SELPA's conduct denied Student a free appropriate public education, called FAPE. El Dorado contended that the allegations specifically describe the acts and failures committed by Community Roots Academy Charter School, the other respondent named in the complaint, but not specific acts related to El Dorado. As a result, El Dorado argued it is unaware of what allegations are made against it regarding the failure to provide Student a FAPE. The facts alleged in Student's complaint are sufficient.

Student's complaint sets forth adequate facts related to their FAPE allegations to permit El Dorado to respond and participate in a resolution session and mediation. El Dorado challenged the sufficiency of the complaint, essentially asking for greater factual support for the claims. Such support is not required for a complaint to be deemed sufficiently pled. The complaint identifies issues related to denial of Student's right to FAPE. Student's complaint identifies the issues and adequate facts about the problem to permit El Dorado County Charter SELPA to respond and participate in a resolution session, mediation, and prepare for a due process hearing.

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

ORDER

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

IT IS SO ORDERED.



Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings