BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALPINE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023060498

ORDER DENYING, WITHOUT PREJUDICE, MOTION TO CORRECT THE ISSUES

SEPTEMBER 1, 2023

On August 28, 2023, a videoconference prehearing conference, called a PHC, was hold before Administrative Law Judge Cold Dalton, Office of Administrative Hearings, referred to as OAH. Cecelia Rutherford, Attorney at Law, appeared on behalf of Student. Deborah Cesario, Attorney at Law, appeared on behalf of Alpine Union School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issued an Order Following Prehearing Conference on August 30, 2023.

On August 31, 2023, Student filed a motion to correct the issues as stated in the order following the PHC. Student sought to change the issues to the phrasing used in

Student's PHC statement filed on August 23, 2023, or alternatively, as rephrased in Student's motion to correct.

The parent or guardian and the public agency responsible for a child's education may initiate a due process hearing when there is a proposal or refusal to initiate or change the identification, assessment, or educational placement of a child or the provision of a free appropriate public education, or FAPE, to the child, if the parent or guardian refuses to provide consent to an assessment of the child, or if there is a disagreement regarding the availability of a program appropriate for the child. (Cal. Ed. Code, § 56501, subd. (a).

A due process complaint must provide a description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem. (Cal. Ed. Code, § 56502, subd. (c)(1)(C).) The complaint must sufficiently place the opposing party on notice of the problems stated and resolutions requested. (Cal. Ed. Code, § 56502, subd. (d)(1).)

The complaining party must inform the other parties, at least ten days before the due process hearing, as to what that party believes are the issues to be decided at the hearing and their proposed resolution of those issues. (Cal. Ed. Code, § 56505, subd. (e)(6).)

During the August 28, 2023 PHC, the parties discussed the issues Student intended to bring to hearing for approximately two and one-half hours. The initial complaint listed non-specific claims. During the PHC, the ALJ went through the issues with the parties and as each issue was clarified, Student's counsel confirmed the restatements during the course of the PHC. As stressed during the PHC, it is the filing party's responsibility to develop issues for hearing specifically related to the issues and

factual allegations already stated in their complaints. Here, Student seeks changes to the issues without identifying how the new issues relate to specific allegations made in the July 14, 2023 amended complaint. In order for OAH to consider additional changes to the issues, Student must file a motion setting forth, by page and line number, where each portion of each issue is addressed in the amended complaint.

Accordingly, Student's motion to correct the issues is denied without prejudice.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings