BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

REDDING SCHOOL DISTRICT AND SHASTA COUNTY SELPA.

OAH CASE NUMBER 2020120501

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AS TO SHASTA COUNTY SELPA

DECEMBER 23, 2020

On December 15, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Redding School District and Shasta County Special Education Local Plan Area, referred to as Shasta County SELPA. On December 23, 2020, Shasta County 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; *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

Student's complaint alleges one issue, that Student is having an educationally related mental health crisis and needs a residential treatment center placement. While Student's complaint provides sufficient facts and information related to the problem as to the local education agency responsible for Student's education, Student does not list any facts as to how Shasta County SELPA is responsible for her education.

Student's complaint lists Excel Academy as her school of attendance and Igo-Ono-Platina Union Elementary School District as her district of residence. Based on information from its website, Excel Academy appears to be a Shasta County Office of Education school. Student does not provide any facts or information as to what, if any, action Shasta County SELPA took regarding Student's placement or how Shasta County SELPA is responsible for any decisions related to her placement or Excel Academy. The complaint fails to provide Shasta County SELPA with the required facts relating to the problem.

It appears Shasta County Office of Education, and not Shasta County SELPA, may be the appropriate party to be named in this case. Student may amend her complaint to include Shasta County Office of Education as a named party. Student may also amend her complaint to include facts as to how Shasta County SELPA is responsible for Student's education.

Student's proposed resolutions request a residential treatment center placement. 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 resolution stated in Student's complaint has met the statutorily required standard of stating a resolution to the extent known and available to her at the time.

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) as to Shasta County SELPA.
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 a timely amended complaint, Shasta County SELPA will be dismissed as a party.
5. All mediation, prehearing conference, and hearing dates in this matter are confirmed as to Redding School District.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings