BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA, ILEAD SCHOOLS, ILEAD HYBRID, ACTON-AGUA DULCE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019060994

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT; ORDER DENYING MOTION TO DISMISS AS MOOT

On June 21, 2019, Parent on behalf of 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 Special Education Local Plan Area, iLead Schools, iLead Hybrid, and Acton-Agua Dulce Unified School District. On July 1, 2019, El Dorado County Charter SELPA filed a Motion to Dismiss, and in the alternative 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

SUFFICIENCY OF STUDENT'S COMPLAINT

Student's complaint alleges two claims, all of which are insufficiently pled against El Dorado County Charter SELPA. The complaint fails to provide a description of any alleged violation on the part of El Dorado County Charter SELPA related to the proposed initiation or change concerning the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to him. The complaint fails to provide El Dorado County Charter SELPA with an awareness and understanding of the claims against it. Accordingly, the complaint is insufficient as to El Dorado County Charter SELPA.

MOTION TO DISMISS

El Dorado County Charter SELPA's motion to be dismissed as a party is moot, and therefore, denied, as each of Student's claims have been determined insufficiently pled against El Dorado County Charter SELPA.

ORDER

1. Student's complaint is insufficiently pled against El Dorado County Charter SELPA 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). The filing of an amended complaint will restart the applicable timelines for a due process hearing.

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, El Dorado County Charter SELPA will be dismissed as a party to Student's complaint and the hearing shall proceed against iLead Schools, iLead Hybrid, and Acton-Agua Dulce Unified only.

IT IS SO ORDERED.

DATED: July 5, 2019

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings