BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

BLUE RIDGE ACADEMY, GRANITE MOUNTAIN CHARTER, EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA, AND INSPIRE CHARTER SCHOOL.

OAH CASE NUMBER 2020080035

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT AS TO EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA AND DENIAL OF MOTION TO DISMISS WITHOUT PREJUDICE

AUGUST 17, 2020

On July 31, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Blue Ridge Academy, Granite Mountain Charter, Inspire Charter School, and El Dorado County Charter Special Education Local Plan Area.

On August 14, 2020, El Dorado County Charter Special Education Local Plan Area, called SELPA, timely filed a notice of insufficiency and in the same pleading, requested that it be dismissed from this matter. SELPA's notice of insufficiency claims that Student's complaint neither mentions it in any of the causes of action or identifies it in any factual allegations.

Student has not filed a response to SELPA's notice of insufficiency and motion to dismiss.

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

Here, Student's complaint names SELPA as a respondent in the caption, however, is named only once in the body of the complaint. Moreover, no causes of action or factual allegations mention or discuss SELPA. Student does not specify any allegations of fact as to what specific acts or failures to act are attributable to SELPA, and the proposed resolutions request relief from the charter schools, not SELPA. Because of this, the complaint fails to state sufficient facts that give SELPA an awareness and understanding of the issues and proposed resolutions as they pertain to it such that can be used to prepare for a resolution session, mediation and hearing. Thus, the complaint is insufficiently pled as to SELPA.

SELPA's motion to dismiss is denied without prejudice based upon the insufficiency determination and Order as stated below.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) as to 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. The amended complaint shall specify the issues and proposed resolutions as they pertain to SELPA and each responding party.
5. If Student fails to file a timely amended complaint, SELPA will be dismissed as a party to this matter, and the hearing shall proceed as to Blue Ridge Academy, Granite Mountain Charter, and Inspire Charter School.
6. All dates previously set in this matter are vacated as to SELPA only.

DocuSigned by:
Cynthia Fritz
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Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings