BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT, PALM SPRINGS UNIFIED SCHOOL DISTRICT, AND EAST SAN GABRIEL VALLEY SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2020060179

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JUNE 16, 2020

On June 4, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Long Beach Unified School District, Los Angeles Unified School District, Palm Springs Unified School District and East San Gabriel Valley Special Education Local Plan Area or SELPA. On June 5, 2020, OAH granted Student's request to dismiss Long Beach as a party.

On June 15, 2020, East San Gabriel Valley SELPA filed a Notice of Insufficiency as to the complaint. Also on June 15, 2020, SELPA filed a motion to be dismissed as a party. The motion to be dismissed will be addressed in a separate order after affording Student an opportunity to respond.

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). The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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

East San Gabriel Valley SELPA timely filed its Notice of Insufficiency within 15 days of receiving Student's complaint. SELPA disputes it is an appropriate party to this proceeding. It claims that Student fails to allege any facts to support his allegation that SELPA is responsible for Student's education or otherwise involved in any educational decisions regarding Student. East San Gabriel SELPA contends these failures render the complaint insufficiently pled as to SELPA.

Student's complaint indicates that Student has attended a charter school called Opportunities for Learning for approximately two years. Student asserts that East San Gabriel Valley SELPA is the local educational agency responsible for assessing Student and providing him with educational supports and services while at the charter school. Student claims SELPA failed to timely and appropriately assess him in all areas of suspected disability and find him eligible for special education and related services. Student further claims SELPA developed an individualized education program or IEP in September 2019 which failed to offer a free appropriate public education or FAPE in

several respects, including by failing to offer sufficient specialized academic instruction, measurable goals in all areas of need, and mental health services.

Student's complaint identifies several issues as to SELPA and the other respondents. Issue One alleges a failure to comply with Child Find mandates and assess Student in all suspected areas of disability during the 2017-2018 and 2018-2019 school years. Issue Two challenges the September 2019 IEP. In Issues Three and Four Student maintains he is entitled to independent educational evaluations and compensatory education for the alleged denials of FAPE.

Student identifies problems and provides adequate facts about the problems to permit East San Gabriel Valley SELPA to respond to the complaint, and participate in a resolution session or mediation and prepare for hearing. 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).) Student has met the statutorily required standard regarding proposed resolutions. The issues raised in Student's complaint are sufficiently pled to survive SELPA's insufficiency challenge. Accordingly, Student's complaint is sufficient. Whether SELPA is an appropriate party to this action is not determined herein.

ORDER

1. Student's complaint is sufficiently pled as to East San Gabriel Valley SELPA 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.

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IT IS SO ORDERED.



Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings