BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL DISTRICT, AND CELERITY ACHERNAR CHARTER.

OAH CASE NUMBER 2020010754

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AS TO LOS ANGELES COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA

FEBRUARY 5, 2020

On January 21, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH. In the caption, and introduction paragraph of the complaint, Student included Compton Unified School District, Celerity Charter Schools, Celerity Achernar, and Los Angeles County Special Education Local Plan Area as "Respondents." In the allegations on page two of the complaint, under the heading "Party To Be Named," Student named

Compton Unified School District, and Celerity Achernar Charter. On January 31, 2020, Los Angeles County 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 a proposed initiation or change to a Student's identification, evaluation, or educational placement, or the provision of a free appropriate public education to the Student; (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)(3), and (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 prepare for the hearing, and 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 is insufficiently pled, as to Los Angeles County. While Los Angeles County is listed in the caption, and introduction paragraph as a Respondent, it is not named as a party in the complaint. Also, the complaint does not contain any substantive claims against Los Angeles County. The complaint contains three issues with several sub-issues, detailed facts, and proposed resolutions related specifically to the two named parties. None of the issues or facts, allege that Los Angeles County made any decisions related to Student's identification, evaluation, or placement, or the provision of a free appropriate public education to Student. Because Los Angeles County is not a named party in the complaint, and the complaint does not contain any substantive claims against Los Angeles County, the complaint is insufficiently pled as to Los Angeles County.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D), as to Los Angeles County.
2. The prehearing conference and due process hearing dates will remain as scheduled with respect to Compton Unified School District, and Celerity Achernar Charter.

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Tara Doss
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Tara Doss

Administrative Law Judge

Office of Administrative Hearings