BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

KIPP SOCAL PUBLIC SCHOOLS, KIPP COMIENZA COMMUNITY PREP, AND LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023080152

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

AUGUST 9, 2023

On August 2, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming KIPP SoCal Public Schools, KIPP Comienza Community Prep School, and Los Angeles Unified School District. On August 9, 2023, KIPP Comienza Community Prep School 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

The facts alleged in Student's complaint are sufficient. Student's statement of facts provided a detailed history of Student's educational journey from initial assessment through his present placement.

Student's factual recitation identified KIPP Comienza as Student's placement during 2021-2022 and 2022-2023 school years. The matter was filed on August 2, 2023, and Student did not allege any exceptions to the statute of limitations was applicable.

KIPP Comienza Community Prep argues it is impossible to determine who was responsible for the claims for relief and proposed resolutions. Student elected to collectively name all three local education agencies in its legal issue section. It will be Student's burden to establish at hearing which entity or entities denied Student a free appropriate public education and at which point in time.

Moreover, KIPP Comienza argues KIPP SoCal is not a charter school, but a non-profit organization and should be dismissed from the complaint. A determination of sufficiency is not an appropriate vehicle for a motion to dismiss. No determination is made in this order whether KIPP SoCal is a proper party. KIPP further cited another case involving the same law firm representing Student as evidence to support their determination of insufficiency being granted. OAH decisions and orders are not precedential and binding on other Administrative Law Judges. (Cal Code Regs., tit. 5, § 3085.)

Student's complaint identifies the issues and adequate facts about the problem to permit KIPP SoCal Public Schools, KIPP Comienza Community Prep School, and Los Angeles Unified School District to respond and participate in a resolution session and mediation. Any further discussion of the issues will be addressed at the Prehearing Conference prior to the due process hearing.

ORDER

1. The complaint is sufficient 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.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Aug 9, 2023 15:10 PDT)

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings