BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PASADENA UNIFIED SCHOOL DISTRICT, AVESON CHARTER SCHOOL AND THE LOS ANGELES COUNTY CHARTER SELPA.	OAH Case No. 2016100043 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On September 26, 2016, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Pasadena Unified School District (District) Aveson Charter School (Charter), and Los Angeles County Charter SELPA (SELPA). On October 6, 2016, SELPA filed a Notice of Insufficiency as to Student's complaint, as to SELPA only. No opposition to SELPA's Notice of Insufficiency has been filed with OAH.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem 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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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 contains two issues. Issue One alleges a denial of a free appropriate public education by Pasadena Unified School District. Issue Two alleges a denial of FAPE by Aveson Charter School and SELPA. Both of Student's issues are all insufficiently pled as to SELPA.

Student's complaint provides factual allegations to establish jurisdiction over both District and Charter. No such jurisdictional allegations have been alleged against SELPA, other than by footnote.

Issue One makes no claim of denial of FAPE against SELPA. Student's resolution requests, however, are extensive, and all inclusive of each respondent, jointly and severally. Therefore Issue One is insufficient to establish a factual nexus between SELPA and Student's requested relief in Issue One.

Issue Two alleges denial of FAPE by both Charter and SELPA. Student's complaint provides a lengthy educational history of factual allegations, none of which name or describe special education responsibility of SELPA. Student provides no information to establish SELPA's connection to the allegations made against Charter. Therefore, Student has failed to state sufficient facts supporting this claim, and the claim is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D), as to Los Angeles County SELPA only.

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[2]

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 an amended complaint, the hearing shall proceed on all issues Student's complaint, as alleged against Pasadena Unified School District and Aveson Charter School.

DATE: October 10, 2016

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Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.