BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GRANITE MOUNTAIN CHARTER SCHOOL.

OAH CASE NUMBER 2023060016

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING MOTION TO DISMISS

SEPTEMBER 25, 2023

On September 22, 2023, Student's first amended complaint Due Process Hearing Request, called a complaint, was deemed filed with the Office of Administrative Hearings, referred to as OAH, naming Granite Mountain Charter School. On September 22, 2023, Granite Mountain Charter School filed a Notice of Insufficiency and Motion to Dismiss as to the complaint. Student filed a response to Granite Mountain Charter's notice of insufficiency and motion to dismiss on September 25, 2023.

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 complaint identifies the issues and adequate facts about the problem to permit Granite Mountain Charter School to respond and participate in a resolution session and mediation.

Notice of Insufficiency motions are stand alone motions and must be filed separately. Granite Mountain's motion to dismiss is denied without prejudice as it must be filed separate from the notice of insufficiency.

Student's first amended complaint contained seven issues. The issues presented describe the problem, provide facts about the problem, and propose a resolution. Generally, the issues include a failure to timely assess, a denial of a vision therapy independent educational evaluation, the failure to provide vision services, predetermining the decision to deny services, failing to address reading and regression, and failing to make an IEP offer. Therefore, Student's statement of the seven claims is sufficient.

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.
3. Granite Mountain's motion to dismiss is denied.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Sep 25, 2023 14:41 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings