BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

APPLE VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060022

ORDER FINDING COMPLAINT INSUFFICIENTLY PLEADED

JUNE 13, 2022

On May 27, 2022, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Apple Valley Unified School District. On June 13, 2022, Apple Valley filed a timely notice of insufficiency as to the complaint.

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, and 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.)

Since 2004, the Individuals with Disabilities Education Act, called the IDEA, has had a two-year statute of limitations period that is codified in two different provisions of the IDEA: title 20 United States Code sections 1415(b)(6)(B) and 1415(f)(3)(C). A due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law. (34 C.F.R. § 300.507(a)(2).) Based upon this authority, states are permitted to adopt their own statute of limitations, as California has done.

California implements the IDEA through its special education implementing statutes. (*Miller v. San Mateo-Foster City Unified School Dist*. (N.D. Cal. 2004) 318 F.Supp.2d 851, 860 (*Miller*).) Similar to the federal statute, Education Code section 56505, subdivision (l) provides that any request for a due process hearing shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request.

However, California has adopted its own manner of applying the discovery rule. California has held that a claim accrues for purposes of the statute of limitations when a parent learns of the injury that is a basis for the action, that is, when the parent knows that the education provided is inadequate, not when the claim actually occurred. (*M.M. & E.M. v. Lafayette School Dist*. (N.D.Cal., Feb. 7, 2012 Nos. CV 09– 4624, 10–04223 SI) 2012 WL 398773, ** 17 – 19 (*M.M.*), affd.in part and revd. in part on other grounds by *M.M. v. Lafayette School Dist., et al* (9th Cir. 2014) 767 F.3d 842, 859.) In *M.M.*, the District Court made an evidentiary finding that the parents had sufficient knowledge of the educational goings-on inside and outside of the classroom to be put on notice of their underlying claims. (*M.M.*, supra, at *18) In other words, the statute of limitations begins to run when a party is aware of the underlying facts that would support a legal claim, not when a party learns that the action was wrong. (*M.M., supra*, at *18.)

In California, the knowledge of facts requirement does not demand that the party know the specific legal theory or even the specific facts of the relevant claim. Rather, the party must have known or reasonably should have known the facts underlying the supposed learning disability and their IDEA rights. (*Miller, supra*, 318 F.Supp.2d at p. 861 (citing *Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, 1111); *Ashlee R. ex rel. Russell v. Oakland Unified School Dist. Financing Corp*. (N.D. Cal., Aug. 23, 2004, No. C 03-5802 MEJ) 2004 WL 1878214, at *5 (*Ashlee*).)

It does not matter if the parent understood that the inadequacy was a legal claim, what is material is the fact that parents had knowledge of the problem. Congress intended to obtain timely and appropriate education for special needs children. Congress did not intend to authorize the filing of claims under the IDEA many years after the alleged wrongdoing occurred. (*Alexopulous v. San Francisco Unified School Dist*. (9th Cir. 1987) 817 F.2d 551, 555.) A claim accrues, and the statute of limitations begins to run, when the complainant knows or has reason to know of the injury which is the basis of his action. (*Miller, supra*, 318 F.Supp.2d at p. 861 (quoting *Alexopulous, supra*, 817 F.2d at p. 554).)

In sum, the statute of limitations begins to run when a party is or should have been aware of the facts that would support a legal claim, not earlier, when the act occurred, and not later, when a party learns that it has a legal claim. (*El Pollo Loco, Inc. v. Hashi*m (9th Cir. 2003) 316 F.3d 1016, 1039)[discovery rules are designed to "protect those who are ignorant of their cause of action through no fault of their own.]) The statute of limitations is triggered when the complainant discovers, or reasonably could have discovered, his claim. (*O'Connor v. Boeing N. Am., Inc*. (9th Cir. 2002) 311 F.3d 1139, 1147.) In the field of special education disputes, California has interpreted that trigger to occur when parents know the education is inadequate, not when parents knew that inadequacy was a legal claim. (*Miller, supra*, 318 F.Supp.2d at p. 861; *Ashlee*, *supra*, 2004 WL 1878214, at *5.)

Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of

information from the parent that was required under particular special education law to be provided to the parent.

Student alleges that he has not attended Apple Valley for over two years, and that at all relevant times, Parent had complained to Apple Valley staff about Student's low grades and poor behavior. The allegations establish that Parent knew, or should have known, in 2015 and throughout Student's attendance at Apple Valley, that Student's educational program was allegedly inadequate. Therefore, the claims as to Apple Valley are outside the statute of limitations.

As to those claims, Student did not allege sufficient facts to establish an exception to the statute of limitations. Student does not allege that Parent was prevented from filing a request for due process due to specific misrepresentations by Apple Valley that it had resolved the problem forming the basis of the complaint, as Student alleges the poor grades and behavior continued throughout his time in Apple Valley. Student does not allege facts demonstrating that Apple Valley was required to provide Parent with information required under particular special education law in response to her concerns about Student's grades and behavior, but withheld that information. Rather, Student alleges actions and inactions by Apple Valley staff in failing to assess Student or address his poor academic performance, which do not fall into either exception category. Further, California Code of Civil Procedure section 352, cited by Student in the complaint, does not apply to complaints authorized by the IDEA and California special education that have their own statute of limitations provisions,

Student's complaint fails to identify issues and adequate sufficient facts about the problem to permit Apple Valley to respond and participate in a resolution session and mediation.

Accordingly, Student's due process complaint is insufficiently pleaded.

ORDER

1. Student's complaint is insufficiently pleaded under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings