BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CORONA-NORCO UNIFIED SCHOOL DISTRICT and RIVER SPRINGS CHARTER SCHOOL.	OAH Case No. 2019010872 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 23, 2019, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Corona-Norco Unified School District and River Springs Charter School. On February 7, 2019, Corona-Norco filed a notice of insufficiency as to Student's complaint. River Springs has only filed a notice of representation in this matter.

APPLICABLE LAW

Sufficiency of Complaint

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.)

Statute of Limitations

The statute of limitations for the filing of special education due process hearing requests in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) An action must be filed within two years from the date a party knew or had reason to know of the facts underlying the action. (Ed. Code § 56505, subdivision (l); see also 20 U.S.C. 1415(f)(3)(C) ["knew or should have known about the alleged action that forms the basis of the complaint."]). The law contains 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 to be provided to the parent. (20 U.S.C. § 1415(f)(3)(D)(i) and (ii); Ed. Code, § 56505, subds. (l)(1) and (l)(2).) Therefore, the statute of limitations for due process complaints in California precludes claims that occurred more than two years prior to the date of filing the request for due process unless one or both of the exceptions in Education Code section 56505, subdivisions (l)(1) or (l)(2) are found to be applicable. (20 U.S.C. § 1415(f)(3)(C); Ed. Code § 56505, subd. (l); *M.M. v. Lafayette School District* (9th Cir. 2014) 767 F.3d 842, 309.)

In the case of *Avila v. Spokane School Dist. 81* (9th Cir. 2017) 852 F.3d 936 (*Avila*), the Ninth Circuit allowed a student to present claims based on events that occurred more than two years before the student filed a complaint pursuant to the Individuals with Disabilities Education Act. The Ninth Circuit found that in Washington, under certain circumstances, claims older than two years might be presented if parents did not realize they had a claim. (*Avila* at 940-944.) However, unlike California, Washington does not have its own statute of limitations pertaining to special education complaints.

DISCUSSION

Student alleges two claims or issues in the complaint. Issue One is a claim that Corona-Norco and River Springs denied Student a free appropriate public education because they failed to provide her with an appropriate placement and program. Issue Two pertains only to River Springs. Corona-Norco claims Issue One is insufficiently pled in regards to those claims against it which pertain to events occurring more than two years before Student filed her complaint.

Student states facts in the complaint which show she attended school in Corona-Norco's boundaries from at least 2012, when she was found eligible for special education, to the fall of 2016, when she enrolled in River Springs. Student claims she resumed attendance at a school within Corona-Norco's boundaries in October 2018.

Student claims the two-year statute of limitations for the filing of a complaint pursuant to the IDEA, does not apply in this case because "Parents just recently learned of the District's significant denial of FAPE throughout Student's entire tenure with the District." Student cites several cases, most importantly *Avila*, in support of her request that the statute of limitations be extended beyond two years. However, the complaint is unclear as to the period of time Student wants the two-year statute of limitations tolled. Student states that she became eligible for special education when she was in third grade in February 2012. However, the next date mentioned by Student is in May 2015. Therefore, it is unclear whether Student is asking for the statute of limitations to be extended back to 2012, or only back to 2015. Student has failed to provide Corona-Norco with the required notice of a description of the problem and the facts relating to the problem that is sufficient for it to know how to prepare for the hearing and how to participate in resolution sessions and mediation, as to claims prior to the time she enrolled in River Springs in the fall of 2016. However, Student's Issue One is sufficiently pled as to Corona-Norco as to claims after she re-enrolled in Corona-Norco in October 2018.

River Springs did not file a notice of insufficiency. Therefore, it is found that both Issue One and Issue Two are sufficiently pled as to River Springs.

ORDER

1. Student has insufficiently pled Issue One as to Corona-Norco as to any claims before she re-enrolled in October 2018, under section title 20 United States Code 1415(c)(2)(D).

2. Student has sufficiently pled any claims against Corona-Norco after Student re-enrolled in October 2018, under title 20 United States Code section 1415(b)(7)(A)(ii).

3. Student has sufficiently pled her claims against River Springs under title 20 United States Code section 1415(b)(7)(A)(ii).

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

5. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed no later than 14 days from the date of this order.

6. If Student fails to file a timely amended complaint, the hearing shall proceed on Issue One and Issue Two as to River Springs, and on Issue One as it pertains to Corona-Norco for claims after Student re-enrolled in October 2018.

7. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: February 8, 2019

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Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

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