BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021050620

ORDER OF DETERMINATION OF PARTIAL SUFFICIENCY OF DUE PROCESS COMPLAINT

JUNE 8, 2021

On May 20, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Mt. Diablo Unified School District as respondent. On June 4, 2021, Mt. Diablo filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

PLEADING STANDARD

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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast,* (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387.] 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.]; 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 in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, 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 to be provided to the parent.

Consequently, both federal and California law contain a two-year statute of limitations for special education administrative actions that requires a finding of when the parent knew of the facts which form the basis of the claim. (20 U.S.C. § 1415(b)(6)(B); 34 C.F.R. § 300.507(a)(2); Ed. Code, § 56505, subd. (l).) California, however, has adopted its own manner of applying this 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, i.e., when the parent knows that the education provided is inadequate. (*M.M. & E.M. v. Lafayette School Dist*. (N.D. Cal., Feb. 7, 2012 Nos. CV 09–4624, 10–04223 SI) 2012 WL 398773, pp. 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.)

A statute based upon the discovery rule 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. (*Id*. at p. 18). It

does not matter if the parent understood that the inadequacy was a legal claim, just 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 for a denial of a free appropriate public education, or FAPE, many years after the alleged wrongdoing occurred. (*Alexopulous v. San Francisco Unified School Dist*. (9th Cir. 1987) 817 F.2d 551, 556.)

Invoking the exceptions to the statute of limitations requires a showing that the school district's misrepresentation or withholding of information caused the failure to file the due process complaint on time. Thus, where the evidence shows that the parents were fully aware of their procedural options, they cannot excuse a late filing by pointing to the school's failure to formally notify them of those options. (*D.K. v. Abington School Dist*. (3d Cir. 2012) 696 F.3d 233, 246-247.)

DISCUSSION

Student's complaint asserts that Student is entitled to raise and litigate claims dating from the 2012-2013 school year until the date of filing based on exceptions to the statute of limitations. In its notice of insufficiency, Mt. Diablo argues that Student's complaint does not include sufficiently specific facts to explain how Student's claims outside of the statutory period qualify for an exception to the statute of limitations. Mt. Diablo does not raise objection to the manner in which Student has pled claims within the statutory period. Mt. Diablo's notice of insufficiency is interpreted as a partial request that OAH find insufficiently pled the portion of Student's complaint covering claims from the 2012-2013 school year through May 19, 2019.

Student places at issue both exemptions to the statute of limitations. First, Student asserts that for the period spanned by the complaint, Mt. Diablo

misrepresented to Parents that Student was making meaningful progress in Mt. Diablo's program. This explanation on its own is sufficient to meet California's minimum pleading standards. Student further provides examples of Mt. Diablo's alleged misrepresentations: that Mt. Diablo had implemented Student's IEPs with fidelity, that Student was making progress in areas of social skills, attention and focus, and math, that Student was operating at a higher level of independence than Student actually was, that Student was successfully forming friendships at school, that Mt. Diablo could hold IEP team meetings without required team members, and that Mt. Diablo had completed timely assessments of Student. Student provides additional specificity by setting forth the time frames of the alleged violations in Paragraphs 43 through 58 of the complaint. Student asserts that as a result of Mt. Diablo's misrepresentations, Parents were not able to file a timely complaint, and that the present complaint qualifies for an exemption to the statute of limitations.

Second, Student asserts that Mt. Diablo intentionally withheld records from Parents for the period spanned by the complaint. This explanation on its own is sufficient to meet California's minimum pleading standards. Student further provides examples of Mt. Diablo's alleged withholding of information: that Mt. Diablo withheld from Parents student and educational records, test protocols, and IEP goals. Student asserts that as a result of Mt. Diablo's withholding of records, Parents were not able to file a timely complaint, and that the present complaint qualifies for an exemption to the statute of limitations.

The facts alleged in Student's complaint, regarding the statute of limitations claims as well as the underlying issues for the time period from the 2012-2013 school year through May 19, 2019, are sufficient to meet California's minimum pleading standards. Student's complaint sufficiently identifies the issues and adequate facts

about the issues to permit Mt. Diablo to respond and participate in resolution session and mediation.

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.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings