

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100158

ORDER GRANTING REQUEST FOR RECONSIDERATION

AND DENYING

MOTION TO DEFINE STATUTE OF LIMITATIONS

NOVEMBER 30, 2021

On November 17, 2021, the Office of Administrative Hearings, also called OAH, through the undersigned Administrative Law Judge, issued an "Order Denying Motion to Dismiss for Statute of Limitations." On November 30, 2021, Pasadena filed a "Motion for Reconsideration of Order Denying Motion to Define Statute of Limitations." On November 30, 2021, Student filed an opposition to Pasadena's motion.

MOTION FOR RECONSIDERATION

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time, generally within ten days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

Pasadena identifies a statement in the November 17, 2021 order that may have caused confusion. In the November 17, 2021, order, the undersigned described Pasadena's "Motion to Define the Statute of Limitations in Student's Complaint" as a motion seeking dismissal of the complaint on the grounds its claims were time barred and titled the order issued on Pasadena's motion, "Order Denying Motion to Dismiss for Statute of Limitations." Pasadena's "Motion to Define the Statute of Limitations in Student's Complaint" actually sought an order determining that some of Student's claims were barred by the statute of limitations. Therefore, the motion for reconsideration is granted.

MOTION TO DEFINE STATUTE OF LIMITATIONS

Pasadena asks that OAH determine any of Student's claims alleged to have occurred more than two years before the request for due process was filed are barred by the statute of limitations. Pasadena argues that Student did not plead facts establishing a basis for either an exception or extension to the statute of limitations. Without these specifically pled facts, Pasadena asserts, Student's claims predating the date two years prior to the date the complaint was filed should be barred.

Pasadena's "Motion to Define the Statute of Limitations in Student's Complaint," which asks OAH to bar some of Student's claims in advance of an evidentiary hearing, is denied.

California has its own statute of limitations controlling special education cases as allowed by the Individuals with Disabilities Education Act. California law mandates that claims be limited to those filed two years from the date the filing party knew or had reason to know of the facts underlying the basis for the request. Additionally, California's statute provides for two exceptions to the limitations statute: 1) in cases of misrepresentation by the local educational agency that it had solved the problem forming the basis of the due process hearing request; and 2) in cases where there has been withholding of information by the local educational agency from the Parents that was required to be disclosed pursuant to Education code section 56504. The circumstances forming the exception to the statute of limitations must have prevented a parent or Student from filing a request for due process hearing. (Ed. Code §56505, subd. (l).) No statute of limitations applies if these circumstances are established. (*Ibid.*) The necessary factual determinations establishing when Student had knowledge of the facts underlying the basis of the complaint, or whether circumstances exist eliminating the statute of limitations, require an evidentiary hearing.

Pasadena requests the original order be set aside, arguing: the order incorrectly stated Pasadena did not provide authority for its motion; Student did not establish any exception to the statute of limitations; and Student's complaint failed to establish knowledge of the facts underlying Student's issues. These arguments are not persuasive.

The original order did not state that Pasadena provided no legal authority regarding the statute of limitations. Rather, the order stated that Pasadena did not cite,

“binding or persuasive legal authority” requiring issues predating the statute of limitations be dismissed prior to an evidentiary hearing. Pasadena’s motion states it “seeks reconsideration...on the basis that the Order does not address OAH’s past pattern and practice with regards to challenges to issues outside the statutory period.” Prior OAH orders are not binding authority. (Govt Code § 11425.60; Cal. Code Reg. tit. 5, § 3085, subd. (a).) Accordingly, the Order is not overturned on this basis.

Next, Pasadena argued Student’s complaint did not establish an exception to the statute of limitations. Special Education Due Process Hearings do not require verified pleadings. Neither facts in the request for due process nor those in a district’s response are required to be stated under penalty of perjury. As a result, statements in pleadings are not evidence. 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].) The pleading requirements for special education cases do not require that Student plead every fact necessary to establish their case. Pasadena did not file a Notice of Insufficiency asserting the claims were insufficiently pled. (20 U.S.C. § 1415 (c)(2)(A); Ed. Code § 56502, subd. (d)(1).) Absent a timely request for a ruling of insufficiency, the complaint is deemed sufficient and proceeds to hearing as is. (20 U.S.C. § 1415 (c)(2)(A); Ed. Code § 56502 subd. (d)(1).) Accordingly, the Order is not overturned based on this claim.

Finally, Pasadena argues that Student’s complaint pleads facts establishing knowledge of the problems underlying the claims and, thus, cannot extend the statute of limitations. Pasadena essentially seeks a prehearing evidentiary finding arguing, “here, sufficient evidence exists in the Complaint, and the Opposition, to establish that Student knew or reasonably should have known of the facts that form the basis of these claims.” (Emphasis added). As noted, neither a special education complaint nor a response is evidence. Additionally, there is no summary judgment process in special

education cases. The IDEA specifically provides that, “[w]hen a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing.” (20 U.S.C. 1415 (f)(1)(A).) Pasadena’s “Motion to Define the Statute of Limitations in Student’s Complaint” was effectively a motion for summary adjudication of claims predating October 7, 2019. Student shall have the burden of proving entitlement to pursue claims prior to October 7, 2019, at hearing.

ORDER

1. Pasadena’s Motion for Reconsideration is Granted.
2. Pasadena’s “Motion to Define the Statute of Limitations in Student’s Complaint” is Denied.
3. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings