BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FRUITVALE SCHOOL DISTRICT.	OAH Case No. 2018070377 ORDER GRANTING MOTION TO DISMISS CLAIMS OUTSIDE OF THE STATUTE OF LIMITATIONS

On July 5, 2018, Student filed a request for due process hearing naming Fruitvale School District as respondent. On August 14, 2018, Fruitvale filed a motion to limit and dismiss all issues preceding the basic two-year statute of limitations that pertains to special education cases, on the grounds that Student's request for due process failed to allege any facts that would raise a factual dispute regarding required services not being provided to Student prior to July 6, 2016. Student opposed the motion on August 15, 2018. Fruitvale filed a reply to Student's opposition later that same day.

APPLICABLE LAW

Pleading Standard

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.] All that is required in a due process hearing complaint is a description of the nature of the problem of the child related to the proposed initiation or change; including facts relating to the problem and a proposed resolution of the problem to the extent known to the party at the time of filing. (Ed. Code §56502(c)(1)(C) and (D); 20 U.S.C. § 1415 (b)(7)(B)(iii).) However, minimal pleading standards do require factual allegations to put the respondent on notice of claims on which they will be expected to defend.

In this case, the pleadings are minimal. Facts are asserted. No statement of issues is made. Thus, Fruitvale is left to search the complaint for the issues on which a defense must be presented. Throughout the complaint, references are made to facts that occurred in 2018. The only references to occurrences prior to 2018 are found in Paragraph one, where Student asserts that "over one year ago Mother had previously requested a speech/language and OT assessment that district never responded to;" and in paragraph 5 in which it is alleged that "The recommendation for [Student] to have vision therapy was given to the district last year…" No assertions of violations of state or federal special education law preceding July 6, 2016 has been made in the request for due process.

In his opposition, Student argues that Fruitvale failed to file a notice of insufficiency, thus resulting in the complaint being deemed sufficient. This is true. (Ed. Code 56502(d)(1).) However, the sufficiency attributed to a complaint is limited to the pleadings contained in the four corners of the complaint. Fruitvale is still entitled to notice of the allegations being asserted against it. Nothing in the complaint puts Fruitvale on notice that Student would be seeking remedies for actions going back to 2015. At most, Fruitvale has been put on notice that some actions that occurred in 2017 may be at issue. While Student contends that his proposed resolution seeking "compensatory services in all categories since 2016" puts Fruitvale on notice of an intent to pierce the statute of limitations, there is no reasonable interpretation of that phrase that could lead Fruitvale to a conclusion that Student seeks remedies for legal violations occurring prior to the statutory period.

The statute of limitations in California is two years from the date the party initiating the request for due process knew or had reason to know of the facts underlying the basis for the request. (Ed. Code, § 56505, subd. (l); *Avila v. Spokane School District 91,* 852 F. 3d 936, 945) Exceptions to the statute exist in instances where 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); Ed Code § 56505(l).)

Student has alleged no facts that put Fruitvale on notice of any intention to pierce the statute of limitations. Nothing in the complaint indicates that Student is seeking remedies reaching back to 2015. Fruitvale's motion to dismiss claims occurring prior to July 5, 2016 is GRANTED. The exact issues to be tried at hearing shall be determined by the Administrative Law Judge presiding over the Prehearing Conference in this matter. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: August 15, 2018

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings