NOT FOR PUBLICATION

FILED

DEC 15 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARLENE JACKSON, Plaintiff-Appellant, v. MESA COMMUNITY COLLEGE; SONYA PEARSON, Dr., in her official capacity as Vice President of Student Affairs, Title IX Investigator for Mesa Community College; CYNTHIA K. JEPSEN, in her official capacity as Coordinator, College Compliance, Title IX Investigator for Mesa Community College; SHANEL CARTER, in her official capacity as Employment Development Manager, Title IX Investigator for Mesa Community College, Defendants-Appellees.	No. 21-17051 D.C. No. 2:20-cv-01869-DWL MEMORANDUM[*]

Appeal from the United States District Court
for the District of Arizona
Dominic Lanza, District Judge, Presiding

Submitted December 8, 2022[**]

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Darlene Jackson appeals pro se from the district court's judgment dismissing her action alleging claims under 42 U.S.C. § 1983, Section 504 of the Rehabilitation Act of 1973 ("RA"), and state law arising out of her nursing education. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Redlin v. United States*, 921 F.3d 1133, 1138 (9th Cir. 2019). We affirm.

The district court properly dismissed Jackson's 42 U.S.C. § 1983 claim because Jackson failed to allege facts sufficient to show that she suffered a constitutional violation as a result of an official policy or custom. *See Castro v. County of Los Angeles*, 833 F.3d 1060, 1073-76 (9th Cir. 2016) (en banc) (discussing requirements to establish municipal liability under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978)); *Navarro v. Block*, 72 F.3d 712, 714 (9th Cir. 1996) ("Proof of random acts or isolated events is insufficient to establish custom.").

The district court properly dismissed Jackson's RA claim as barred by the statute of limitations because Jackson amended her complaint to add the claim after the two-year statute of limitations had expired and the amendment did not relate back to her original complaint. *See* Ariz. Rev. Stat. § 12-542 (providing two-year statute of limitations for personal injury actions); *Ervine v. Desert View*

Reg'l Med. Ctr. Holdings, LLC, 753 F.3d 862, 869 (9th Cir. 2014) (explaining that analogous state law provides the statute of limitations for RA claims and applying state statute of limitations for personal injury actions); *see also* Fed. R. Civ. P. 15(c)(1)(B) (providing that an amendment relates back to the date of the original pleading when it asserts a claim that "arose out of the conduct, transaction, or occurrence set out . . . in the original pleading"); *Echlin v. PeaceHealth*, 887 F.3d 967, 978 (9th Cir. 2018) ("[A]n amendment will not relate back where the amended complaint 'had to include additional facts to support the [new] claim.'" (citation omitted)).

The district court properly dismissed Jackson's state law claims because Jackson failed to comply with Arizona state law Notice of Claim rules. *See* Ariz. Rev. Stat. § 12-821.01 (requiring plaintiffs to serve notice of claims against a public entity within 180 days of accrual of cause of action).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions are denied.

AFFIRMED.