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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JASMIN RANGEL, LUIS RODRIGUEZ, and I.R., a minor
by and through his guardians ad litem JASMIN RANGEL and LUIS RODRIGUEZ; DOMINIQUE DIXON, and S.I., by and through his guardian ad litem DOMINIQUE DIXON,
Plaintiffs,

v.

CHINO VALLEY UNIFIED SCHOOL DISTRICT, HAYMATTIE MOHAMED, ADRIENNE SMITH, LUKE HACKNEY, WAYNE JOSEPH,
Defendants.

Case No. EDCV 15-01218 DDP (DTBx)

ORDER GRANTING PLAINTIFFS' PETITIONS FOR RELIEF FROM CALIFORNIA GOVERNMENT CODE § 945.4

[Dkt. Nos. 4, 5.]

Presently before the Court are Plaintiffs' Petitions for Relief from California Government Code § 945.4. (Dkt. Nos. 4, 5.) After hearing oral argument and considering the parties' submissions, the Court adopts the following Order.

I. BACKGROUND

This civil rights and torts case by two minors through their guardian ad litem alleges that certain individuals teaching at a Chino Valley elementary school physically and verbally abused their

1 students, including the two minors here, who both have
2 disabilities. (See generally Compl.) Plaintiffs have sued the
3 Chino Valley Unified School District ("CVUSD"), teacher's aide
4 Haymattie Mohamed, teacher Adrienne Smith, principal Luke Hackney,
5 and Superintendent of CVUSD Wayne Joseph. (Id. ¶ 9-13.)

6 Plaintiffs allege both federal and state law claims based on
7 the allegations of abuse the minors S.I. and I.R. suffered at the
8 elementary school: violation of constitutional rights under § 1983;
9 violations of the Americans with Disabilities Act; violation of
10 § 504 of the Rehabilitation Act; violation of California Civil Code
11 § 52.1; state law battery; state law intentional infliction of
12 emotional distress; state law negligence; state law negligent
13 supervision; state law violation of mandatory duty under California
14 Penal Code §§ 11165.3 to 11165.9; violation of California's Unruh
15 Civil Rights Act, Civil Code § 51; and violation of California's
16 Education Code § 220.

17 Plaintiffs also each filed a Petition for Relief from
18 California Government Code Section 945.4 with the Complaint. (Dkt.
19 Nos. 4, 5.) Defendant CVUSD opposes these petitions.

20 **II. DISCUSSION**

21 In addition to their federal causes of action, Plaintiffs here
22 have California state law claims against a state government entity,
23 Chino Valley Unified School District ("CVUSD"). Thus, Plaintiffs
24 are subject to the requirements of California's Government Tort
25 Claims Act. Cal. Gov't Code § 810 et seq. Section 945.4 requires
26 a prospective plaintiff to present a written claim to the public
27 entity before filing a lawsuit for damages against that entity.
28 Id. § 945.4. There are strict procedures for the claim process,

1 including specific factual content that must be in the claim and a
2 time bar of six months for claims related to personal injury. Id.
3 §§ 910, 911.2(a). Relevant here, section 910 requires the claim to
4 include: "(c) The date, place and other circumstances of the
5 occurrence or transaction which gave rise to the claim asserted"
6 and "(d) A general description of the indebtedness, obligation,
7 injury, damage or loss incurred so far as it may be known at the
8 time of presentation of the claim." Id. § 910(c), (d).

9 A claimant who fails to present a claim to a public entity in
10 the six-month time period can submit a written application to the
11 public entity for leave to present that late claim. Id.
12 § 911.4(a). The application should be submitted to the public
13 entity within a year of "the accrual of the cause of action." Id.
14 § 911.4(b). The public entity has forty-five days to act on the
15 application, otherwise it is deemed denied. Id. § 911.6(a), (c).
16 The forty-five day time limit can be extended by agreement of the
17 parties. Id. § 911.6(a). Additionally, certain situations are
18 statutorily mandated for the public entity to grant the
19 application, such as when "[t]he person who sustained the alleged
20 injury, damage or loss was a minor during all of the time specified
21 in section 911.2 for the presentation of the claim." Id. §
22 911.6(b)(2). That is, section 911.2 requires a claim to be
23 presented within six months, but if the claimant is a minor during
24 the six month period, then the public entity must grant the minor
25 leave to present a late claim.

26 If an application for leave to present a claim is denied by
27 the public entity (or deemed denied based on the entity's failure
28 to act), then "a petition may be made to the court for an order

1 relieving the petitioner from Section 945.4." Id. § 946.6(a).
2 Thus, the petition would excuse the party's failure to timely
3 present a claim to the public entity before filing suit. Id. The
4 statute also requires the petition to contain the same specific
5 factual content that the claim and application were required to
6 contain. Id. § 946.6(b). Lastly, the petition to the court must
7 be filed within six months of the public entity's denial of the
8 application. Id. § 946.6(c).

9 The petition should be filed in the California Superior Court
10 where venue is proper to hear the underlying claim, but federal
11 courts sitting in diversity jurisdiction have also heard these
12 petitions because the claim statute is not jurisdictional and "[a]
13 federal court properly exercises supplemental jurisdiction over
14 state law claims transactionally related to federal claims." Perez
15 v. City of Escondido, 165 F. Supp. 2d 1111, 1114-15 (S.D. Cal.
16 2001).

17 **A. Petition from I.R.**

18 **1. Plaintiffs' Petition**

19 On October 20, 2014, Plaintiff I.R. filed an application with
20 CVUSD for leave to present a late claim. (Yarnykh Decl., Ex. 1,
21 Dkt. No. 4-2, at 2 (Application).) The application stated that
22 "[a] public entity must grant a late claim application when the
23 claimant was a minor during the entire six month claims-
24 presentation period, as long as the claimant applied for permission
25 within a reasonable time (not to exceed one year) after the cause
26 of action accrued." (Id. at 3 ¶ 1.) The application stated that
27 the cause of action accrued more than six months prior to October
28 20, 2014, but less than a year, and that the claimant was a minor

1 during that time. (Id. ¶¶ 2-4.) Further, the application stated
2 that from August to December 2013, I.R. was a student at a CVUSD
3 school and in the classroom of an allegedly abusive teacher's aide.
4 (Id. at 3-4 ¶ 6.) In December 2013, police officers came to I.R.'s
5 home in connection to an investigation into abuse that a teacher's
6 aide, Defendant Haymattie Mohamed, had allegedly committed. (Id.
7 at 4 ¶ 7.) Thus, I.R.'s mother learned of the abuse in December
8 2013. (Id.)

9 In an attached claim explanation, I.R. also stated that during
10 the August to December 2013 school period, "[I.R.] would come home
11 with bruises, scratches, and other injuries, experience
12 uncontrolled crying, and exhibit extreme fear of going to school."
13 (Id. at 7 (Claim Attachment).) The attachment stated that the
14 "full extent of the abuse suffered by claimant [I.R.] is unknown,"
15 particularly as I.R. was only about seven years old at the time and
16 "has been diagnosed with autism and cerebral palsy, and has very
17 limited communication skills." (Id.) I.R.'s mother attempted to
18 contact CVUSD and police department authorities after the police
19 visit in December 2013 to learn more about the investigation into
20 the abuse at I.R.'s school, but she stated that she never received
21 an adequate response, leading her to file the claim. (Id. at 10
22 (Rangel Decl.).)

23 On November 6, 2014, CVUSD sent a letter denying the late
24 claim application and providing a notice of insufficiency on the
25 claim as to the dates provided and the injury description.
26 (Yarnykh Decl., Ex. 2, Dkt. No. 4-3.) The notice said that "the
27 deficiencies should be corrected immediately." (Id.) On November
28 26, 2014, Plaintiffs' counsel provided CVUSD with an amended

1 application addressing the deficiencies alleged in the denial
2 letter. (Yarnykh Decl., Ex. 3, Dkt. No. 4-4.) The attachment to
3 the claim was amended to state:

4 On or about December 12, 2013, officers of the Chino
5 Hills Police Department came to [I.R.]'s parents' home in
6 connection with their investigation of a CPS complaint
7 against Mohamed who physically abused [I.R.]. A mandated
8 reporter called CPS and stated that Mohamed yelled at
9 [I.R.], and then grabbed his arm which made him cry and
left a big bruise. The school did not report this incident
to [I.R.]'s mother Jasmin Rangel, and she was unaware of
the abuse suffered by her son until the police officers
came to her home on December 12, 2013, the day this
particular incident occurred.

10 Jasmin Rangel noticed significant changes in [I.R.]'s
11 behavior since August of 2013 when he was assigned to Smith
12 and Mohamed's classroom. [I.R.] would come home with
13 scratches, bruises and other injuries, and was afraid to go
to school and would cry uncontrollably. [I.R.] is nonverbal
and could not tell his mother what was happening to him at
school.

14 The full extent of the abuse suffered by [I.R.] is
15 unknown. On information and belief, claimant alleges that
16 he was exposed to physical, verbal and emotional abuse and
17 neglect while in Smith's and Mohamed's care. The abusive
conditions in the classroom have existed for a substantial
period of time and were known to the responsible
administrators of the Chino Valley Unified School District.

18 (Id. at 7 (Claim Attachment).)

19 On January 20, 2015, Plaintiffs received a second denial of
20 the late claim application from CVUSD, which denied the amended
21 application. (Yarnykh Decl., Ex. 4, Dkt. No. 4-5 ("Notice is
22 hereby given that the Amended Application For Permission to Present
23 Late Claim which you presented to the Chino Valley Unified School
24 District on behalf of [I.R.], a Minor, on or about November 26,
25 2014 was denied on January 20, 2015.")) On January 15, 2015,
26 prior to receiving this denial letter, Plaintiffs' counsel had
27 emailed the responsible party at CVUSD regarding the amended
28 application. (Yarnykh Decl., Ex. 5, Dkt. No. 4-6 (email).) The

1 email argued that under California Government Code section
2 911.6(b)(2), the permission to file a late claim must be granted
3 because of the claimant's minor status. (Id.) Further, the email
4 stated that because CVUSD had not responded to the November 26
5 amended application that the application would be deemed denied as
6 of January 8, 2015. (Id.) The third party claim administrator for
7 CVUSD emailed Plaintiffs' counsel back on January 21, 2015, stating
8 that counsel would shortly receive a letter denying the amended
9 application. (Yarnykh Decl., Ex. 6, Dkt. No. 4-7 (email).)

10 Therefore, on June 22, 2015, Plaintiffs filed their Complaint
11 in this Court, along with a petition for relief from the
12 requirement to present a timely claim to the public entity prior to
13 filing suit, as required under California Government Code section
14 945.4.

15 **2. Defendant's Opposition**

16 Defendant CVUSD opposes the petition for I.R.'s claim to be
17 excused from the procedural requirements of presenting a claim in
18 the California code. (Opp'n, Dkt. No. 52.) CVUSD argues that the
19 petition was untimely filed because it should have been filed on
20 May 6, 2015, not June 22. (Id. at 1.) Further, CVUSD claims that
21 the petition lacks certain required factual information. (Id.)
22 Lastly, if the Court were to grant the petition, CVUSD claims that
23 the state law claims against CVUSD should be limited to events and
24 injuries that occurred "no earlier than October 20, 2013." (Id.)

25 First, CVUSD claims that I.R.'s petition is late because CVUSD
26 denied I.R.'s application for leave to present a late claim on
27 November 6, 2014. (Id. at 7.) According to CVUSD, there was no
28 obligation for CVUSD to respond to the amended application.

1 Instead, at the very latest, the application should have been
2 deemed denied by December 4, 2014, which was 45 days after the
3 application was submitted and the date the statutory scheme sets
4 for when an application is otherwise "deemed denied." (Id. at 7-
5 8.) But since there was a formal denial of the claim on November
6 6, 2014, Plaintiffs had six months from that date to file a
7 petition, which would be May 6, 2015.¹ (Id. at 9.) Instead,
8 Plaintiffs waited until June 22, 2015, to file the petition at the
9 same time as the complaint in this action. (Id.) Therefore, CVUSD
10 claims the petition is time barred and must be denied. (Id.)

11 Additionally, CVUSD argues that I.R.'s petition lacks the
12 information required by California Government Code § 946.6(b)(3),
13 which in turn requires the petition to contain the information in
14 section 910. (Id. at 9.) CVUSD states that the petition,
15 application, and claim all failed to meet these requirements
16 because they do not contain the date of the occurrence that gave
17 rise to the claim and a general description of the injury. (Id.)
18 Defendants argue the petition and application are also required to
19 explain why the claim was not timely presented in the first
20 instance, within 6 months of the injury occurring, and Plaintiffs
21 failed to include that information as well. (Id. at 10.)

22 Further, CVUSD argues that the petition must be successfully
23 and timely presented to a court of proper jurisdiction before a
24 claim against a public state entity such as CVUSD can be allowed to
25 go forward under California law. (Id. at 11-14.) In anticipation

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27 ¹ If the Court uses the December 4, 2014, date as the date
28 of denial, the petition would still be untimely filed according to
Defendants because it would be more than six months later when
filed on June 22, 2015.

1 of Plaintiffs' argument that no petition is necessary in this case
2 because CVUSD was required to grant the application to present a
3 late claim, CVUSD cites a case that did require timely application
4 and petitions to bring a cause of action against a state entity,
5 J.M. v. Huntington Beach Union High School District, 240 Cal. App.
6 4th 1019 (2015), review granted and opinion superseded by 362 P.3d
7 431 (Cal. S. Ct. 2015). (Opp'n, Dkt. No. 52, at 11-14.) CVUSD
8 acknowledges that J.M. is not valid law because the opinion has
9 been vacated on the California Supreme Court's grant of the
10 petition for review, but argues that the reasoning of the case
11 should apply here and require timely presentation of a petition
12 before the claims are allowed to go forward. (Id. at 13-14.)

13 Lastly, CVUSD argues that if the Court is inclined to grant
14 the petition, then I.R. should be limited to alleging injuries from
15 October 20, 2013, which is a year prior to when the application to
16 file a late claim was filed on his behalf. (Id. at 15.) CVUSD
17 states that the petitions describe strange behavior and injuries
18 beginning in August 2013, but that I.R.'s parent did not do
19 anything to investigate this until the police showed up at her
20 house in December 2013. (Id. at 16.) Therefore, there was no
21 excuse for failing to file an application earlier.

22 **3. Plaintiffs' Reply**

23 Plaintiffs maintain that because I.R. was a minor during the
24 applicable claim time period, the mandatory provisions of
25 California Government Code § 911.6(b)(2) apply here, which required
26 CVUSD to grant the application and allow I.R. to present a late
27 claim. (Reply, Dkt. No. 56, at 1.) Because CVUSD failed to do
28 this both times I.R. presented the claim and application,

1 Plaintiffs claim they need not have petitioned the Court, and
2 therefore the Court should grant the petition. (Id.) Plaintiffs
3 argue that currently valid California law as set forth in the case
4 E.M. v. Los Angeles Unified School District, 194 Cal. App. 4th 736
5 (2011), states that where an application is presented for leave to
6 present a late claim and the relief is mandatory under section
7 911.6(b)(2), then the erroneous denial of the application satisfies
8 the claim requirement in section 945.4. (E.M., 194 Cal. App. 4th
9 at 747-48; Reply at 5.)

10 Plaintiffs also argue that the application to CVUSD in
11 November 2014 was timely because it was within a year of I.R.'s
12 mother learning of the facts that gave rise to the claim and
13 because I.R. was subject to "a continuing pattern of abuse."
14 (Reply at 6.) Jasmin Rangel never knew that the bruises and
15 scratches on her son could have been signs of abuse, as she thought
16 they were the result of I.R. playing with siblings and friends at
17 school. (Id. at 2 (citing Yarnykh Decl., Dkt. No. 56-1, Ex. 6
18 (Police Report).) Further, those injuries were "too ambiguous"
19 when dealing with a nonverbal, disabled child to determine that
20 abuse was taking place at the school. (Id. at 7.) Thus, I.R.'s
21 mother did not discover the continuing abuse until December 2013.
22 According to Plaintiffs, this means that both of the applications
23 in November 2014 were within a year of the accrual of the action,
24 which is measured by the date of discovery of the abuse and
25 includes the full continuation of the abuse.

26 Further, the petition to the Court was timely, Plaintiffs
27 argue, because the last denial was on January 20, 2015, and the
28 petition was filed on June 22, 2015, less than six months later.

1 (Id. at 1.) The only part of the application that was amended –
2 and amended at the direction of CVUSD in the first denial letter –
3 was the claim, which had deficiencies in the dates and description
4 of the injuries. (Id. at 9.) Section 910.6(a) provides that a
5 claim can be amended before the section 911.2 time period or before
6 final action is taken by the public entity on the claim.
7 Plaintiffs argue that they amended the claim as directed by CVUSD
8 and the final action was the January 20, 2015 letter of denial.
9 (Id. at 9-10.)

10 Additionally, Plaintiffs argue that the doctrine of equitable
11 estoppel applies here to excuse any lateness of the petitions.
12 (Id. at 11-12.) Plaintiffs claim that CVUSD should be estopped
13 from arguing the petition was untimely because:

- 14 (1) CVUSD was on notice that I.R. sustained an injury at
15 the hands of a classroom aide, and the facts, as
16 Plaintiff knew them at the time, were presented to
CVUSD in writing;
- 17 (2) in the initial notice of rejection of the Application,
18 CVUSD included additional language about insufficiency
19 of the claim and stated that it must be corrected
20 immediately – obviously intending for I.R. to comply
with the instructions, and I.R. had a right to believe
21 that his action was anticipated and that CVUSD
22 intended him to act and amend the claim;
- 23 (3) I.R. had no reason to believe that CVUSD will not
24 honor his Application or the Amended Application and
violate the mandatory language of the statute, as both
25 were filed within a year of the accrual of action – at
no time did I.R. suspect that CVUSD would hold him to
the denial of the original Application as the date
commencing the statute of limitations; [and]
- 26 (4) . . . in reliance on CVUSD’s instructions, I.R.
27 supplemented the information in his claim.

28 (Id.) Therefore, Plaintiffs argue that I.R. reasonably believed
that the January 20, 2014 denial letter was the notice that began

1 his statute of limitations in presenting a petition and CVUSD
2 should be equitably estopped from arguing otherwise.

3 Lastly, Plaintiffs argue that the petitions included all the
4 required information under the relevant statutory sections, as did
5 the applications and claims. (Id. at 12-13.)

6 **4. Court's Analysis**

7 First, the Court holds that the petitions, claims, and
8 applications comply with the content requirements in the statutory
9 scheme as set forth in section 910. The relevant dates (as known
10 to Plaintiffs at that time) as well as I.R.'s injuries and the
11 events that caused those injuries (again, as known to Plaintiffs at
12 that time) were explained in sufficient detail in the papers
13 provided to CVUSD at every step of the claim process, including in
14 the total papers provided to the Court at the petition stage.
15 Further, after providing notice that the claim as presented was
16 deficient on two requirements, Plaintiffs amended their claim and
17 provided more detail. Therefore, the Court holds that the
18 substance of the petition, application, and claims were sufficient
19 to put CVUSD on notice of the claim and to satisfy the statutory
20 requirements.

21 Second, the Court holds that the petition to this Court was
22 timely. Under E.M., it appears that the petition could be
23 unnecessary because of the statutory requirement that a public
24 entity, such as CVUSD, grant an application for leave to file a
25 late claim for a minor claimant within a year of the accrual of the
26 claim. Because CVUSD erroneously denied I.R.'s application, the
27 court in E.M. appears to set forth the rule that petitioning the
28 court is not required. The Court acknowledges that Defendant

1 challenges this understanding of the law based on the question
2 presented on the petition for review to the California Supreme
3 Court. Thus, the Court examined the actual timeliness of the
4 petition and finds it was timely or else excused by equitable
5 estoppel.

6 CVUSD's first denial of the application on November 6, 2014,
7 directed I.R. to correct the noted deficiencies in the claim
8 "immediately" in order for the claim to be considered. Thus, it is
9 unclear why this date would be the applicable one for determining
10 the statute of limitations – CVUSD instead put the Plaintiffs on
11 notice that CVUSD would consider (and required) an amended claim.
12 Plaintiffs filed an amended claim on November 26, 2014. Then,
13 Plaintiffs' counsel communicated with the third party claims
14 administrator via email in January 2015, with Plaintiffs receiving
15 the formal denial of the application (with no noted deficiencies)
16 on January 20, 2015. Thus, whether by equitable estoppel
17 principles or the operation of the statute of limitations, January
18 20, 2015, is the date from which the Court calculates the
19 timeliness of the petitions and finds that the petitions were
20 timely filed less than six months later on June 22, 2015.

21 Therefore, for good cause shown, the Court grants I.R.'s
22 petition for relief from the requirements of California Government
23 Code § 945.4. The applications and claims were timely presented to
24 CVUSD based on Plaintiffs' allegation of continued abuse since
25 August 2013, Jasmin Rangel's discovery of the abuse in December
26 2013, and the presentation of the applications and claims in
27 November 2014, which was within a year of Jasmin Rangel's
28 discovery. The petition was timely as discussed above. The

1 explanation for the failure to present a timely claim – namely, the
2 late discovery by Jasmin Rangel and the difficulty communicating
3 with the school about the abuse investigation – is sufficient to
4 show good cause. Therefore, the claims against CVUSD are properly
5 in this Court.

6 **B. Petition from S.I.**

7 **1. Plaintiffs' Petition**

8 On March 25, 2015, Plaintiffs' counsel sent CVUSD a letter
9 with an application for permission to present a late claim
10 attached. (Yarnykh Decl., Ex. 1, Dkt. No. 5-2.) The letter had
11 the same assertion as I.R.'s letter regarding the claimant's minor
12 status during the relevant time period and the statutory
13 requirement to grant permission to present a late claim in that
14 instance. (Id. at 3-4 ¶¶ 1-4.) Further, S.I. was alleged to be a
15 student at the same school as I.R. with same teachers during the
16 2013 to 2014 school year. (Id. at 4 ¶ 6.) The application stated
17 that around June 2, 2014, S.I.'s mother was notified by the school
18 that S.I. had "fell and bumped his head" on the edge of his desk,
19 but that S.I.'s mother did not believe the school because "the
20 edges of the desks were rounded and the wound on [S.I.]'s forehead
21 required stapling." (Id. ¶ 7.)

22 The attachment to the claim stated that S.I. was also about
23 seven to eight during the 2013 to 2014 school year and that S.I.
24 "has been diagnosed with autism and has very limited communication
25 skills." (Id. at 7.) The attachment further explained that prior
26 to the June 2, 2014 incident, S.I.'s teacher, Defendant Adrienne
27 Smith, had cut S.I. with her wedding ring and that since August
28 2013, when S.I. entered Smith's and Mohamed's classroom, S.I.

1 "would come home with scratches, bruises and other injuries, was
2 afraid to go to school and would cry uncontrollably." (Id.) S.I.
3 also "started to violently shake [his mother's] arms to get her
4 attention, a behavior that he apparently modeled after Smith and
5 Mohamed." (Id.) The claim stated that the full extent of the
6 abuse and injuries were not known. (Id.)

7 On April 28, 2015, CVUSD denied the application. (Yarnykh
8 Decl., Ex. 2, Dkt. No. 5-2, at 12.) Further, that same day, CVUSD
9 sent a "Return of Untimely Claim," which told Plaintiffs' counsel
10 that the claim was not presented within six months of the events of
11 June 2, 2014, much less the allegations about abuse beginning in
12 August 2013, and thus it was untimely and leave must be sought to
13 file a late claim. (Yarnykh Decl., Ex. 3, Dkt. No. 5-2, at 14.)

14 Therefore, on June 22, 2015, Plaintiffs filed their Complaint
15 in this Court, along with a petition for relief from the
16 requirement to present a timely claim to the public entity prior to
17 filing suit, as required under California Government Code section
18 945.4.

19 **2. Defendant's Opposition**

20 Defendant CVUSD also opposes this petition. (Opp'n, Dkt. No.
21 53.) Defendant argues that the petition does not contain the
22 information required under the statutory scheme in section 910,
23 which means it must be denied. (Id. at 1.) If the Court grants
24 the petition, Defendant also requests that the state law claims be
25 limited to any injuries that arose from March 25, 2014, onward.
26 (Id.)

27 CVUSD argues that S.I.'s petition does not contain all the
28 information required under California Government Code section

1 946.6(b)(3), which incorporates the requirements of section 910.
2 (Id. at 6-7.) Specifically, CVUSD argues that the petition does
3 not provide CVUSD with the date of the events that gave rise to the
4 claim or a general description of the injury underlying the claim.
5 (Id.) Further, the petition fails to provide an explanation for
6 why the claim was not timely presented to the public entity (i.e.,
7 within six months). (Id. at 6.) Additionally, Defendant CVUSD
8 incorporates its arguments described above that support its
9 contentions that the petition process to a court is mandatory based
10 on the vacated decision in J.M. (Id. at 7-11.)

11 Lastly, CVUSD argues that S.I.'s claims – should the Court
12 grant his petition – should be limited to those occurring no
13 earlier than March 25, 2014. (Id. at 11-13.) S.I.'s application
14 for leave to present a late claim was filed on March 25, 2015, and
15 an application must be filed no later than one year from the date
16 the injury occurred. (Id. at 12.) Thus, CVUSD argues that the
17 allegations that injuries could have occurred beginning in August
18 2013 (the beginning of the 2013-2014 school year), must be struck
19 from the state law claims because they were not timely presented to
20 CVUSD in the March 2015 application and there is no explanation for
21 S.I.'s failure to present those claims before March 2015. (Id. at
22 12-13.)

23 **3. Plaintiffs' Reply**

24 Plaintiffs request that the Court grant S.I.'s petition,
25 including the allegations from before March 2014, because the claim
26 was timely presented to CVUSD and the petition includes all the
27 necessary information. (Reply, Dkt. No. 55, at 2, 8-9.)
28 Plaintiffs also reiterate that under the law as explained in E.M.,

1 no petition is necessary here because CVUSD improperly denied the
2 minor claimant's application. (Id. at 3-5.)

3 According to Plaintiffs, S.I.'s mother, Dominique Dixon, had
4 no reason to believe her son's injuries or behavioral issues prior
5 to June 2, 2014, were due to abuse at the CVUSD school. (Id. at
6 2.) On June 2, 2014, S.I. was injured at school, requiring
7 forehead staples, and Dixon was told that it was due to S.I.
8 bumping his head on his desk. (Id.) Dixon did not believe this
9 explanation of the injury because the desk had round edges. (Id.)
10 Thus, Plaintiffs argue that the claim accrued upon S.I.'s mother
11 discovering on June 2, 2014, that her son sustained injuries caused
12 by abuse at the school that could relate to his behavioral issues
13 and injuries since the beginning of the school year in August 2013.
14 (Id. at 2, 5-7.) As was argued with I.R., Plaintiffs claim there
15 was a continuation of S.I.'s abuse from August 2013 until his
16 mother's discovery of the abuse on June 2, 2014; thus, under both
17 the continuing abuse and delayed discovery doctrines, the
18 presentation of the claim was timely because it was within a year
19 of discovery. (Id. at 5-7.)

20 Plaintiffs also claim that this petition is timely because it
21 was filed within six months of CVUSD denying S.I.'s application for
22 leave to present a late claim. (Id. at 7-8.) CVUSD denied the
23 application on April 28, 2015, and the petition was filed in this
24 Court on June 22, 2015, which is less than two months later. (Id.
25 at 7.) The petition also explains why the application for a late
26 claim was filed: S.I.'s mother had no reason to know until June 2,
27 2014, that her son was abused by someone at school and that after
28 June 2, 2014, she investigated the issue and filed the application.

1 (Id. at 7-8; Yarnykh Decl., Dkt. No. 55-1, Ex. 1 at 3-4 ¶¶ 1-8
2 (Application).)

3 Lastly, Plaintiffs argue that the petition does comply with
4 the statutory content requirements in section 910. (Reply, Dkt.
5 No. 55, at 8-9.) The petition includes the application and claim,
6 which include the relevant dates, general description of the
7 injury, and explains why the claim was not timely presented. (Id.)
8 Additionally, Plaintiffs argue that CVUSD's letters of denial to
9 S.I.'s claim and application did not include a notice of
10 deficiency. (Id. at 9.) Therefore, Plaintiffs argue that they
11 were not on notice that the claims were deficient in any way and,
12 thus, CVUSD has waived the issue. (Id.)

13 **4. Court's Analysis**

14 First, the Court finds this petition timely under California's
15 statutory scheme. Less than six months passed between the denial
16 of the application to present a late claim and the filing of a
17 petition in this Court. The application was also sent to CVUSD
18 within a year of Dominique Dixon becoming aware of the facts giving
19 rise to the claim. Therefore, the petition is not time barred.

20 Second, the Court holds that the petition and the included
21 application and claim contain all the required information under
22 section 910. Specifically, the petition states the dates that the
23 injuries occurred on to the best of S.I.'s mother's knowledge (June
24 2, 2014, and then perhaps continuing back throughout the 2013-2014
25 school year); states a general description of S.I.'s injuries as
26 described above; and explains why the claim was presented late
27 (S.I.'s minor status and limited ability to communicate; S.I.'s
28 mother's investigation into the abuse after S.I.'s forehead

1 injury). All of the papers taken as a whole present to the Court
2 and CVUSD the facts necessary to know what claim is being presented
3 and satisfy the statutory requirements.

4 Lastly, because there are allegations and sufficiently pled
5 facts of S.I. suffering continuing abuse and the delayed discovery
6 of that abuse by S.I.'s parent, the Court will not limit as a
7 matter of law the allegations to those injuries that occurred no
8 earlier than March 25, 2014. Therefore, for good cause shown, the
9 Court grants S.I.'s petition for relief from California Government
10 Code § 945.4. S.I.'s claims are properly in this Court.

11 **IV. CONCLUSION**

12 For all the reasons discussed above, the Court GRANTS
13 Plaintiffs' Petitions.

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15 IT IS SO ORDERED.

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17 Dated: May 9, 2016



18 DEAN D. PREGERSON
19 United States District Judge
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