

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PANAMA-BUENA VISTA UNION
SCHOOL DISTRICT and KERN COUNTY
SUPERINTENDENT OF SCHOOLS.

OAH CASE NO. 2012060648

ORDER GRANTING DISTRICTS'
MOTION TO DISMISS ISSUES
OUTSIDE OF THE TWO-YEAR
STATUTE OF LIMITATIONS

Student, through her parent filed a request for due process (complaint) on June 18, 2012, naming the Panama-Buena Vista School District and the Kern County Superintendent of Schools (Districts). Student's complaint contains eight issues, alleging, in pertinent part, that Student was denied a free appropriate public education (FAPE) for various specified and unspecified school years.

On June 21, 2012, the Districts filed a motion to dismiss issues arising prior to the two-year statute of limitations. Student has not filed an opposition or other response to the motion.

APPLICABLE LAW and DISCUSSION

The statute of limitations for due process complaints in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. §1415(f)(3)(C).) 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 education agency that it had resolved the problem forming the basis of the complaint, or the local education agency's withholding of information from the parent that was required to be provided to the parent. Student has not alleged that any exception applies in this case, and as such, Student's issues must be limited to the two-year statute of limitations.

The Districts' motion to dismiss issues prior to the two-year statute of limitations is granted. The two-year statute of limitations in this case begins on June 18, 2010, as a request for a due process hearing must be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. Student has not asserted any exceptions that would serve to toll the statute of limitations in this case.

Therefore, the issues raised in Student's complaint must be evaluated from June 18, 2010 onward.

Accordingly, the Districts' motion is granted.

ORDER

1. The Districts' motion to dismiss issues prior to the two-year statute of limitations is granted.
2. All allegations of Student's complaint arising prior to June 18, 2010, are dismissed. Where Student fails to allege a particular time frame for an issue, such as in her Issue One, the issue is deemed to relate only to the time period from June 18, 2010, forward. Where Student alleges a violation beginning prior to the two-year statute of limitations, such as in Issues Four and Five, or where the time frame is ambiguous, such as in Issue Two, the issue is deemed to relate only to the time period from June 18, 2010, forward.
3. Unless another period is specified within the two-year statute of limitations, all of Student's issues shall be evaluated from June 18, 2010, forward.

Dated: June 27, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings