

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2016030630

ORDER GRANTING PARTIAL
MOTION TO DISMISS

Student filed a request for due process (complaint) on March 10, 2016, naming the Placentia-Yorba Linda Unified School District. On March 18, 2016, District filed a motion to dismiss the allegations in Student's complaint that fall outside the applicable two-year statute of limitations. District also moved to dismiss Student's eighth proposed resolution which requests an order of attorney's fees should she prevail at hearing.

Student has not filed an opposition or other response to District's motion.

APPLICABLE LAW AND DISCUSSION

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, 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 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.

Student's issue one alleges that District failed to assess her as required by law. Student does not give a time frame during which District allegedly failed to meet this legal obligation, but the factual background of Student's complaint details information on Student going back to 2009, and alleges that Student's mother requested District assess her as far back as approximately 2011, when Student was three years old. In issue two, Student alleges that the services and programs District offered and/or delivered to Student denied her a free appropriate public education beginning with the 2013-2014 school year, and extending to the 2015-2016 school year.

Student does not contend in her complaint that her parent was prevented from filing a request for due process because of misrepresentations made by District that it had resolved the issues that are the subject of this complaint, or that District had withheld information from her parent that it was required to provide to her. Nor does Student contend in her complaint that the statute of limitations should be tolled. Additionally, none of the allegations or facts in Student's complaint independently supports tolling the applicable two-year statute of limitations. District's motion to dismiss any allegation arising before March 10, 2014, when the two-year statute of limitations began to run, is granted.

The Office of Administrative Hearings does not have the authority to award attorney's fees to a student who wholly or partially prevails at a due process hearing. District's motion to dismiss Student's proposed resolution eight is granted.

ORDER

1. District's motion to dismiss all allegations in Student's complaint arising prior to March 10, 2014, is granted.
2. District's motion to dismiss Student's proposed resolution eight is granted.

DATE: April 12, 2016

DocuSigned by:
Darrell Lepkowsky
A228F8201132400

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings