

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CHULA VISTA ELEMENTARY SCHOOL
DISTRICT.

OAH Case No. 2016031041

ORDER GRANTING IN PART
MOTION TO DISMISS

On May 18, 2016, Chula Vista Elementary School District filed with the Office of Administrative Hearings a motion to dismiss issues that exceeded OAH’s jurisdiction and issues that exceeded the two years statute of limitations. On May 19, 2016, Parents on behalf of Student filed an opposition.¹ District filed a reply on May 19, 2016.

OAH Jurisdiction:

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to entertain claims based on the Family Educational Rights and Privacy Act. (20 U.S.C. § 1232(g).)

¹ Student’s request to strike portions of District’s motion that refer to mediation discussions is denied as moot, as District’s motion does not refer to a mediation discussion.

Statute of Limitations:

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.

DISCUSSION

In the present matter, Student's complaint alleges six issues. Student's second issue (issue "B") claims that District failed to appropriately assess him based upon circumstances that arose in December 2012. Student filed his complaint on March 21, 2016. Student's claim therefore exceeds the two years statute of limitations. Because Student's complaint failed to allege that an exception to the two year statute of limitations exists for this matter, student's claim is time barred by application of the statute.

Student's issue five (issue "E") alleges that District violated FERPA by failing to protect and keep confidential his medical records. In application of the authority cited above, OAH does not have jurisdiction over FERPA claims. Student's claim fails to allege a violation of the IDEA or corresponding state laws against District, and is therefore dismissed.

Student's remaining claims are restated in Student's May 18, 2016 prehearing conference statement, as three issues. Student alleges that District failed (1) its Child Find obligations, since November 2014; (2) to assess Student in all areas of suspected disability, and; (3) to provide needed services and supports. Those issues fall under the purview of OAH.² Similar to Student's complaint, his prehearing conference statement does not allege any exception to the two year statute of limitations. Student's issues shall therefore commence within the two year statute of limitations.

ORDER

District's Motion to Dismiss as to Student's issues B and E is granted. Student's remaining claims, as described in Student's prehearing conference statement as issues one,

² Student's issues may be further clarified by the Administrative Law Judge during the prehearing conference.

two and three, shall be limited by the two year statute of limitations. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: May 20, 2016

DocuSigned by:

Paul H. Kamoroff

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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings