

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

vs.

LAFAYETTE SCHOOL DISTRICT,

OAH CASE NO. 2009081105

PARENT on behalf of STUDENT,

vs.

LAFAYETTE SCHOOL DISTRICT.

OAH CASE NO. 2009040640

ORDER DENYING REQUEST FOR
STAY

On April 16, 2009, Student filed a Request for Due Process Hearing (original complaint) with the Office of Administrative Hearings (OAH), naming Lafayette School District (District). The original complaint claims that Student was denied a free appropriate public education (FAPE) for the 2005-2006 and the 2006-2007 school years. On May 5, 2009, the District filed a motion to dismiss all claims that were barred by the two-year statute of limitations governing special education due process hearings.¹ OAH granted this motion in part on May 13, 2009, and dismissed all claims prior to April 18, 2006.

On August 31, 2009, Student filed a second complaint. The second complaint claims that the District denied Student a FAPE for the 2007-2008 and 2008-2009 school years. The matters were consolidated by OAH on September 16, 2009.

On October 15, 2009, Student filed a request to stay proceedings in this consolidated matter. Student states two grounds for requesting a stay. The first ground for the request for a stay is that he has filed an appeal of the May 12, 2009 order dismissing claims prior to April 18, 2009. The second ground is that Student has filed another appeal in federal court, that of an OAH hearing decision issued on July 1, 2009, concerning a matter filed by the District in December 2008. Student argues that the rulings by the federal court on these appeals will affect how he presents his case in the instant consolidated matter. The District has not filed a response.

¹ Education Code section 56505, subdivision (l) requires a due process complaint to be filed no more than two years after the complainant discovers that a claim exists. There are two narrow exceptions that toll the statute that are not applicable here.

On October 16, 2009, OAH conducted a trial-setting conference (TSC), in this consolidated matter and set dates of January 20, 2010, for a prehearing conference, and dates from February 2, through February 10, 2010, for a due process hearing. During the TSC, no ruling was made concerning the request for stay.

DISCUSSION

Student has cited no authority for OAH to stay due process hearings. Accordingly, the request for a stay of proceedings is denied.

IT IS SO ORDERED.

Dated: November 03, 2009

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings