

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2011020128

ORDER DENYING MOTION TO  
DISMISS

On February 3, 2011, Student filed a Request for Due Process Hearing (complaint) against the Palos Verdes Peninsula Unified School District (District). On February 11, 2011, the District filed a motion to dismiss, alleging that Student's claims were outside the two-year statute of limitations. On February 16, 2011, Student filed an opposition to the District's motions.

APPLICABLE LAW

The statute of limitations in California was amended, effective October 9, 2006, and 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 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

The District asserts that Student alleges violations against the District that occurred before the two-year statute of limitations and which do not fall within any of the statutory exceptions. In the present matter, Student's 30 page complaint contains 13 pages of mostly unnecessary factual contentions that occurred from 2002 through February 2, 2009, the contentions are for background information and the District's basis of knowledge regarding Student's unique needs. The remainder of the complaint alleges violations that occurred within the two-year statute of limitations, and proposed resolutions. The three issues for hearing, as alleged in the complaint and noted in Student's opposition, are limited to the

period within the two-year statute of limitations. Therefore, the District's motion to dismiss is denied as the issues for hearing are within the two-year statute of limitations.

ORDER

The District's motion to dismiss is denied. The matter shall proceed as scheduled.

Dated: February 22, 2011

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings