

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GRIDLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011120189

ORDER GRANTING MOTION TO  
DISMISS CLAIMS BEFORE  
DECEMBER 6, 2009

On December 6, 2011, Parents on behalf of Student (Student) filed a Due Process Request (complaint) naming the Gridley Unified School District (District) as respondent. The Complaint alleges that the District denied Student a free appropriate public education (FAPE) for school years 2009-2010 and 2010-2011 through September 2011.

On December 16, 2011, the District filed a motion to dismiss all claims which occurred before December 6, 2009. Student has responded to the District's motion.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education” (FAPE), 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.)

Before October 9, 2006, the statute of limitations for due process complaints in California was generally three years prior to the date of filing the request for due process. The statute of limitations in California was amended, effective October 9, 2006, and is now 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 (1), 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.

Here, Student does not allege any facts why the statute of limitations would not apply in this matter. Accordingly, any claims beyond two years from the date of filing are barred.

**ORDER**

The District's Motion to Dismiss as to all claims which occurred before December 6, 2011, the date of filing the complaint, is GRANTED. The matter will proceed as scheduled as to all claims made since December 6, 2009.

IT IS SO ORDERED.

Dated: December 30, 2011

/s/

---

ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings