

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTEBELLO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012020018

ORDER GRANTING MOTION TO
DISMISS CLAIMS BEFORE
JANUARY 31, 2010

On January 31, 2012, Student filed a Request for Due Process Hearing (complaint), naming the Montebello Unified School District (District). On February 13, 2012, the District filed a motion to dismiss Student's claims that occurred before January 31, 2010, for being outside the two-year statute of limitations. Student did not submit a response.

APPLICABLE LAW

The statute of limitations for due process complaints 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

Issues 1, 3, 4a, and 4b¹ contain allegations that the District denied Student a free appropriate public education before January 31, 2010. The District contends that claims against the District that occurred before January 31, 2010, are barred by the two-year statute of limitations.

¹ Student's complaint contains two Issue 4, pages 23 and 24, which have been relabeled as 4a and 4b for purposes of clarity.

Student's complaint does not contain any allegations that the District made specific misrepresentations that prevented the filing of a hearing request. Additionally, the complaint does not contain any allegations that the District withheld from Parent information that it was required to provide, such as notification of parental rights. Accordingly, Student's claims in Issues 1, 3, 4a, and 4b that occurred before January 31, 2010, are dismissed for being outside the two-year statute of limitations.

ORDER

The District's Motion to Dismiss claims before January 31, 2010, is granted.

Dated: February 21, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings