

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013010120

ORDER DENYING MOTION TO
DISMISS CLAIMS

On January 7, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) naming the Vallejo City Unified School District (District) as respondent. The complaint alleges two claims. The first claim is that Student was denied a free appropriate public education (FAPE) because the District failed to appropriately assess Student during school year 2012-2013. The second claim alleged is that during school years 2010-2011 and 2011-2012, the District failed to provide Student with education programs which provided her with a FAPE. Student limited her claim relating to school year 2010-2011 to “only those claims arising within the statute of limitations.” (Complaint, at p.5, fn. 1.)

On January 17, 2013, the District filed with OAH a response to the complaint which alleged as a defense that Student’s claims are beyond the two limitations period of Education Code section 56505 subsection (1). Also on January 17, 2013, the District filed its motion to dismiss all claims alleged which are beyond the two year limitations period.

On January 23, 2013, Student filed her opposition to the motion. In her opposition, Student states her position thusly: “The statute of limitations for due process complaints in California is two years consistent with federal law. *Petitioner is not alleging issues outside the statute of limitations period.*” (Opposition, p. 2; Citations eliminated, emphasis added.)

Since Student is not alleging any claims beyond the two year limitations period, the District’s motion is moot.

ORDER

The District's motion to dismiss claims is DENIED as it is moot.

IT IS SO ORDERED.

Dated: January 25, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings