

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SANTA BARBARA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014060923

ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS

On June 16, 2014, Student filed a request for due process hearing (complaint), naming the Santa Barbara Unified School District as the respondent. On August 4, 2014, the Office of Administrative Hearings granted Student's motion to amend his complaint.

On August 14, 2014, Santa Barbara filed a motion to dismiss issue three and portions of issues one and two of Student's amended complaint that allege issues beyond the applicable two-year statute of limitations. Student has not filed an opposition or otherwise responded to Santa Barbara's motion.

APPLICABLE LAW AND DISCUSSION OF ISSUES

In California, the statute of limitations for due process complaints is two years, consistent with federal law. (Ed. Code, § 56505, subd. (1); 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 (1), establish exceptions to the statute of limitations in cases in which the student's 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.

Student filed his initial complaint on June 16, 2014. The statute of limitations for his case therefore goes back to June 16, 2012. Issues one and two of Student's complaint allege denials of a free appropriate public education both before and after that date. Student has raised no allegation that would form the basis for applying any exception to the two-year statute of limitations. Therefore, all allegations in issues one and two concerning events prior to June 16, 2012, are dismissed.

Student's issue three alleges the following: "Did the District deny meaningful parent participation by failing to communicate comprehensively and truthfully Students (sic) assessment findings, Student's individualized needs, and the content of his IEP to his parents?" In this issue, Student does not state a time frame for the allegations. Santa Barbara contends that Student is referring to events that occurred at an individualized education program meeting for Student on January 6, 2011, which is outside the statute of limitations. Student has not raised any allegations or facts that would form the basis for an exception to the statute of limitations with regard to issue three.

However, it is unclear from Student's complaint whether issue three is intended to address events at the January 6, 2011 IEP team meeting, or at subsequent meetings. To the extent that Student's intent was to challenge events that occurred prior to June 16, 2012, issue three is dismissed. To the extent that Student intended issue three to cover alleged events on or after June 16, 2012, those events are within the statute of limitations and therefore may proceed to hearing.

ORDER

1. Santa Barbara's motion to dismiss those allegations of issues one, two, and three of Student's amended complaint arising prior to June 16, 2012, is granted.
2. This case shall proceed to hearing on all remaining issues in Student's amended complaint.

DATE: September 3, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings