

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2012020809

ORDER DENYING MOTION TO
DISMISS

On March 9, 2012, the Saddleback Valley Unified School District (District) filed a Motion to Dismiss Claims Beyond the Statute of Limitations. On March 14, 2012, Student filed opposition. No reply has been received.

Student's complaint alleges that he was denied a free appropriate public education (FAPE) because District failed to (i) identify multiple categories of eligibility or to (ii) identify behavioral issues and provide necessary behavioral supports in individualized education programs (IEPs) dated May 1, 2009, May 17, 2010, June 16, 2011 and January 17, 2012. District moves to dismiss "all allegations and claims related to the May 2009 IEP" as beyond the two-year statute of limitations of Education Code section 56505, subd. (l).

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc....), special education law does not provide a pre-hearing procedure for summary adjudication of a portion of a claim within OAH jurisdiction based upon factual allegations or evidence. District's motion relies upon cases or OAH decisions that each involved administrative decisions issued after giving the petitioner the opportunity to develop a factual record at hearing. Here, the two exceptions to the IDEA statute of limitations require factual determinations that can only be made after giving the parties an opportunity to develop the record. In light of the liberal notice pleading standards applicable to IDEA due process hearing requests, as a general matter, sufficiently pleaded due process hearing requests should proceed to hearing. Accordingly, District's motion to dismiss is denied. District may raise the statute of limitations as a defense at hearing.

IT IS SO ORDERED.

Dated: March 20, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings