

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MARIPOSA COUNTY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030800

ORDER DENYING MOTION TO
DISMISS

On March 19, 2012, Student filed a Due Process Hearing Request¹ (complaint) against the Mariposa County Unified School District (District) with the Office of Administrative Hearings (OAH). On April 3, 2012, the District filed a motion that asserted Student's claims were outside OAH's jurisdiction, barred by the two-year statute of limitations and Student had waived the claim regarding the late individualized education program (IEP) team meeting.²

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

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

² The District concurrently filed a Notice of Insufficiency as to Student's complaint, which will be ruled upon in a separate order.

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.)

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (1); 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.

DISCUSSION

Altering of School Records

The District claims that Student's claims that the District altered his school records is outside the scope of OAH's jurisdiction because a separate procedure exists in the California Education Code for Student to request that the District correct his educational records. However, Student is not seeking that remedy. Instead, Student alleges a procedural violation that significantly impeded Mother's ability to participate in Student's educational decision making process during IEP team meetings and also denied him an educational benefit when the District used an altered report card. Therefore, OAH has jurisdiction to hear Student's claims that the District altered Student's school records as a possible procedural violation that denied Student a free appropriate public education, and the District's motion to dismiss these claims denied.

Statute of Limitations

Student's complaint does contain factual allegations that are beyond the two-year statute of limitations. However, Student's response establishes that the claims for hearing only go back to March 19, 2010, within the two-year statute of limitations period, and that the allegations of events that occurred prior to that date are for informational purposes as to the District's knowledge of whether Student required special education services. Accordingly, the District's motion to dismiss claims that occurred before March 19, 2010, is denied because Student's complaint only seeks relief for alleged violations that occurred on or after March 19, 2010.

Untimely IEP Team Meeting

The District asserts that Student waived any claim that the District failed to hold a timely annual IEP team meeting in February 2012. However, a triable issue for hearing exists because Student alleges that the District failed to obtain timely consent, and it did not have a legal reason to seek an extension. Therefore, a triable issue for hearing exists if the

District did not hold a timely annual IEP team meeting in February 2012, and the District's motion to dismiss these claims denied.

ORDER

The District's Motion to Dismiss is denied.

Dated: April 6, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings