

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014060819

ORDER DENYING MOTION TO
DISMISS

On June 13, 2014, Student filed a request for a due process hearing. On June 18, 2014, Lincoln Unified School District (Lincoln) filed motion to dismiss Student's complaint alleging issues raised therein are barred by the statute of limitations. Student did not file a response.¹

APPLICABLE LAW

Parents have 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 [FAPE] to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The Office of Administrative Hearings has jurisdiction over Individuals with Disabilities Education Act (IDEA) claims. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) Those claims must generally be raised within two years.

Prior to October 9, 2006, the statute of limitations for due process complaints in California was three years to file a request for due process. The statute of limitations in California was amended, effective October 9, 2006, to 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 where 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 alleged in the complaint, or because the local educational agency withheld information from the parent that it was required to provide.

¹ Student's complaint notice includes a reference to a stay-put order. Student must file a separate motion, including a copy of his most recent individualized education program (IEP) document, if he seeks a stay-put order.

DISCUSSION

Student alleges two issues in his complaint both purportedly regarding the 2011-2012 school year. Lincoln argues that the issues are barred by the two-year statute of limitations because the 2011-2012 school year concluded on May 31, 2012. It is accurate that the two sentences in the complaint labeled “issues” identify the 2011-2012 school year; however, the complaint in its entirety clearly demonstrates Student’s intent to litigate events occurring within the statutory period. For example, Student alleges he was denied a FAPE because he was dis-enrolled from Lincoln on June 26, 2012, during the 2011-2012 extended school year, and again in early September 2012 over a residency dispute.

Lincoln’s motion to dismiss does not address the extended school year nor that Student’s complaint raised facts occurring within the statutory period. Moreover, Lincoln provides no legal authority for its narrow interpretation that only the sentences identified as “issues” rather than the entire complaint should be read for determining statute of limitations compliance. The pleading requirements under the IDEA should be liberally construed in light of the broad remedial purposes of the act and the relative informality of the due process hearings it authorizes.² By analogy, the entire complaint should be liberally construed in determining whether or not allegations fall within the statute of limitations period. In this case that includes considering portions of the complaint entitled “Nature of the Problem,” “Statement of Facts,” and “Proposed Resolution of the Problem,” in addition to the two sentences titled “issues”.

A prehearing conference (PHC) is currently scheduled in this matter. During the PHC, the issues will be clarified with the parties. Only those allegations arising within the two-year statute of limitations period will be subject to the due process hearing in this case.

ORDER

1. Motion to Dismiss is denied as Student’s complaint asserts facts arising within the statutory period.
2. The issues will be addressed during the PHC to determine specifically the issues within the statute of limitations period.

² *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

3. All dates currently scheduled will remain on calendar.

IT IS SO ORDERED

DATE: June 25, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings