

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN HILLS UNION SCHOOL
DISTRICT.

OAH CASE NO. 2015040378

ORDER GRANTING PARTIAL
MOTION TO DISMISS AS TO ISSUES
OUTSIDE THE STATUTE OF
LIMITATIONS

On April 6, 2015, Student filed a due process hearing request¹ (complaint) naming Twin Hills Union School District.

On April 16, 2015, District filed a motion to dismiss claims beyond the two-year statute of limitations. On April 21, 2015, Student filed a response to District's motion, stating that he would not pursue claims beyond the applicable statute of limitations.

APPLICABLE LAW

The statute of limitations for special education due process claims in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) The statute of limitations operates to bar claims based upon facts outside of the two year period. (*J.W. v. Fresno* (9th Cir. 2010) 626 F.3d 431, 444-445 (*J.W. v. Fresno*); *Breanne C. v. Southern York County School Dist.* (M.D. Pa. 2009) 665 F.Supp.2d 504, 511-512; *E.J. v. San Carlos Elementary School Dist.* (N.D.Cal. 2011) 803 F.Supp.2d 1024, 1026, fn. 1.) Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to (i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or (ii) by the local educational agency's withholding of information that was required to be provided to the parent.

DISCUSSION

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).

Student's complaint alleges that he was denied a FAPE during the 2012-2013, 2013-2014, and 2014-2015 school years. Although much of the 2012-2013 school year took place more than two years before Student's complaint was filed, the April 8, 2013 IEP team meeting is within the statutory period. Student concedes that he cannot raise issues arising more than two years prior to the filing of his complaint, and does not allege facts demonstrating an exception to the statute of limitations. Accordingly, the motion to dismiss issues outside the statute of limitations is granted.

This order does not limit Student's right to amend the complaint under the procedure set forth in Education Code section 56502, subdivision (e) to allege facts tolling the statute of limitations, if applicable.

IT IS SO ORDERED.

DATE: April 24, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings