

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020010127

ORDER GRANTING MOTION TO DISMISS

FEBRUARY 20, 2020

On January 6, 2020, Parent on behalf of Student filed a Request for Due Process Hearing, also known as a complaint with the Office of Administrative Hearings, naming Capistrano Unified School District.

On February 14, 2020, Capistrano Unified filed a Motion to Dismiss, alleging that Capistrano Unified was not the public agency responsible for the identification, evaluation, or educational placement of Student, or for providing her with a free appropriate public education, referred to as a FAPE, during the two-years prior to the filing of the complaint.

On February 18, 2020, Student filed an opposition.

APPLICABLE LAW

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, 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 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. (l); 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 (l),

ACCESSIBILITY MODIFIED

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

First, Student complaint fails to allege facts that would support extending her claims beyond the two-years statute of limitations. The complaint fails to assert facts to establish an exception to the statute of limitations. Specifically, the complaint fails to allege facts as to whether Student's parent was prevented from filing a request for due process due to specific misrepresentations by Capistrano Unified that it had resolved the problem forming the basis of the complaint, or whether Capistrano Unified withheld information from the parent that was required to be provided to the parent. Accordingly, Student's claims prior to January 6, 2018, are barred by the two-year statute of limitations.

Second, Student's complaint fails to allege any facts to establish that Capistrano Unified was responsible for the identification, evaluation, or educational placement of Student, or the provision of a FAPE to her since January 6, 2018, two years prior to the filing of the complaint. The complaint asserts that Student disenrolled from Capistrano Unified on or about May 2017 and enrolled in another school district. Student had not reenrolled in Capistrano Unified since. In September 2018, Student enrolled at Sage Oak Charter School District. Sage Oak Charter School District is a separate school district from Capistrano Unified. Student remains enrolled at Sage Oak Charter School.

Student argues in her opposition that she has continued to reside within Capistrano Unified's boundaries and therefore, Capistrano Unified remained responsible for offering her a FAPE. Student contends that she was disenrolled from Capistrano Unified due to a dispute over Capistrano Unified's offer of FAPE. However, Student's dispute that led to her disenrollment from Capistrano Unified is based on Capistrano Unified's offer of FAPE during the 2016-2017 school year. Student's complaint and opposition provides no explanation as to why Student did not challenge the 2016-2017 offer of FAPE within two years. In addition, Student was enrolled and served by other school districts, including Sage Oak Charter during that time. Since January 6, 2018, other school districts have been serving Student, not Capistrano Unified. If any of those local education agencies failed to provide Student with a FAPE, the responsibility falls upon that local educational agency and not Capistrano Unified.

Furthermore, the complaint is silent as to whether Student sought an offer for special education and related services from Capistrano Unified since January 6, 2018. Student's opposition merely claims there were ongoing conversations and meetings since Student was disenrolled from Capistrano Unified. However, the opposition does not specify whether those conversations and meetings occurred following January 6, 2018. The complaint fails to allege facts demonstrating Capistrano Unified was involved in any decisions regarding Student since January 6, 2018. Accordingly, Capistrano Unified's motion to dismiss is granted.

ORDER

1. Capistrano Unified's Motion to Dismiss is granted. All dates are vacated.
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). The filing of an amended complaint will restart the applicable timelines for a due process hearing.

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, this matter will be dismissed.

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings