

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. 2014060546

ORDER (1) GRANTING MOTION TO
DISMISS NON-IDEA CLAIMS, AND
(2) DISMISSING ORANGE UNIFIED
SCHOOL DISTRICT AS A PARTY

On June 6, 2014, Student filed a due process hearing request (complaint), naming multiple parties, including Orange Unified School District (OUSD), as the respondents. On June 10, 2014, Student filed a corrected complaint, continuing to name multiple respondents, including OUSD.

On June 17, 2014, OUSD filed a motion to dismiss OUSD as a party because all of the allegations against it are beyond the statute of limitations, and alternatively, to dismiss Student's claims under rights under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)), the Americans with Disabilities Act (42 U.S.C. 12101 et seq. (ADA)), 42 United States Code section 1983 (Section 1983), and related federal and state law. On June 23, 2014, Student filed opposition to dismissal of OUSD as a party. On June 27, 2014, OUSD filed a reply.

APPLICABLE LAW

The Office of Administrative Hearings (OAH) will grant motions to dismiss allegations that are facially outside of OAH jurisdiction, such as civil rights claims and Section 504 claims, or claims that are barred on their face by the statute of limitations.

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 to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (20 U.S.C. § 1400, et seq. (IDEA).) (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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; *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 either (i) 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 (ii) by the local educational agency's withholding of information that was required to be provided to the parent.

DISCUSSION

Non-IDEA Claims

OAH does not have jurisdiction over claims brought under Section 504, the ADA, Section 1983 or related non-IDEA federal or state laws, regardless of the respective statutes of limitations for each of these statutes. OUSD's motion to dismiss Student's non-IDEA claims for lack of jurisdiction is granted.

IDEA Claims

Student's complaint, filed in June 2014, alleges that Student is a 21-year-old man eligible for special education due to a traumatic brain injury suffered in July 2011. Student was hospitalized within the boundaries of OUSD from November 2011 through February 2012. As to OUSD, the complaint alleges that Student received occupational therapy, physical therapy and speech therapy for medical purposes during his hospitalization, but was not provided with special education or related educational services. Student's complaint concludes that the failure to provide him with an appropriate educational program while he was hospitalized constituted a violation of OUSD's "child find" obligations under the IDEA.

The period of hospitalization is outside of the two-year statute of limitations for IDEA claims. Student does not allege that OUSD made misrepresentations that prevented Student's parents from timely filing a request for due process, or that OUSD withheld information that it was required to provide Student's parents. In its opposition, Student fails to identify any statutory or regulatory authority requiring school districts where hospitals are located to provide parents of hospitalized children with information on special education. Under these circumstances, where Student has not alleged any basis for an exception to the statute of limitations and all claims against OUSD arose more than two years from the filing of Student's complaint, OUSD is entitled to dismissal of all remaining claims against it and to be dismissed as a party.

If Student possesses additional facts that demonstrate that an exception to the statute of limitations for IDEA claims applies, he may file a request to amend the

complaint to include allegations showing an exception to the two-year statute of limitations.

ORDER

1. Orange Unified School District's motion to dismiss Student's non-IDEA claims against it is granted.
2. Orange Unified School District's motion to be dismissed as a party is granted. Orange Unified School District is dismissed as a party to this matter.
3. If Student wants to raise issues that arose prior to June 6, 2012, he must seek leave to amend his complaint to allege specific factual allegations that, if true, would demonstrate that an exception to the two-year statute of limitations applies.

DATE: June 23, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings