

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2015020241

ORDER GRANTING MOTION TO
DISMISS ISSUES OUTSIDE STATUTE
OF LIMITATIONS

On January 30, 2015, Student filed a Request for Due Process Hearing (complaint), naming Palos Verdes Peninsula Unified School District as the respondent.

On February 17, 2015, District filed a Motion to Dismiss Issues and Proposed Resolutions Prior to January 30, 2013, alleging that Student's claims arising prior to that date were barred by the statute of limitations. OAH received no response to the Motion to Dismiss from Student.

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), 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.

Here, the District argues that Student failed to plead into any exception to the two year statute of limitations. Student's complaint on its face alleges no facts showing that an exception to the statute of limitations applies. Under these circumstances, where Student has not alleged any basis for an exception to the statute of limitations and has not opposed District's motion to dismiss, it is appropriate to limit the issues to the period from January 30, 2013 through the date of filing. If Student desires to argue that an exception to the statute of limitations applies, he should file a request to amend the complaint to include allegations showing an exception to the two-year statute of limitations applies.

ORDER

1. District's Motion to Dismiss Issues and Proposed Resolutions Prior to January 30, 2013 in OAH Case Number 2015020241 is granted.
2. The only issues for hearing are those that occurred between January 30, 2013, and the date of filing.

DATE: February 24, 2015

/s/

TED MANN
Administrative Law Judge
Office of Administrative Hearings