

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALAMEDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021110161

ORDER DENYING MOTION TO DISMISS ISSUE FOR
STATUTE OF LIMITATIONS

FEBRUARY 15, 2022

On November 5, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Alameda Unified School District. On January 11, 2022, Student filed an amended complaint. On February 9, 2022, Alameda filed a Motion to Dismiss Issue 1(c) in the complaint, on the grounds that the issue is outside the two-year statute of limitations. On February 11, 2022, Student filed an opposition to Alameda's motion.

Alameda alleges Issue 1(c) challenges an offer written in an October 24, 2019 individualized education program, called an IEP, that occurred more than two years before Student filed its complaint. Thus, Alameda argues Issue 1(c) is outside the two-

year statute of limitations and should be dismissed. Student argues that while Alameda initiated the October 24, 2019 IEP team meeting more than two years before the complaint was filed, the IEP was not finalized and was still being developed within the two-year statute of limitations. Further, Student argues the October 24, 2019 IEP remained in effect throughout the two-year statutory period and therefore, is within OAH's jurisdiction.

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.

While OAH will dismiss issues that are indisputably outside of its jurisdiction, it will not dismiss issues where there is a factual dispute between the parties. To do so, would amount to a summary judgement procedure, which does not exist in special education law.

Here, the parties dispute whether the October 24, 2019 IEP was completed outside of the two-year statutory period and whether OAH should have jurisdiction over Alameda's offer of services in the IEP. OAH cannot resolve the parties' dispute without

holding an evidentiary hearing. Deciding otherwise, would amount to a summary judgement procedure. Therefore, Alameda's Motion to Dismiss Issue 1(c) is denied. The case will proceed as scheduled.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings