

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT AND SUNOL GLEN
UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024060790

ORDER DENYING PLEASANTON'S MOTION TO DISMISS
PARTS OF ISSUES 2a AND 3a, AND DISMISSING ISSUE 9

SEPTEMBER 03, 2024

On August 26, 2024, Pleasanton Unified School District, called Pleasanton, filed a motion to dismiss with the Office of Administrative Hearings. No response was received. The Office of Administrative Hearings is called OAH.

Pleasanton moves for dismissal of several issues against it in Student's first amended complaint. It seeks dismissal of those claims in Issues 2a and 3a arising before June 24, 2022, as barred by the two-year statute of limitations, and because Student does not allege facts specific enough to establish exceptions to the statute of limitations. Pleasanton also seeks dismissal of Issue 9 as outside of OAH jurisdiction.

The first amended complaint alleges against Pleasanton at Issues 2a and 3a that Student was denied a FAPE because Pleasanton failed to assess Student for special education eligibility during the 2014-2015, 2015-2016, 2021-2022, 2022-2023, and 2023-2024 school years, failed to assess her at those times in all areas of suspected disability, and failed to find her eligible for special education. Pleasanton contends that Student's allegations are vague and disproved by other allegations that Parents knew Student was struggling at school.

Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to California's two-year 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 under special education law to be provided to the parent. The first amended complaint alleges specifically throughout the complaint for the school years predating June 24, 2022, that Pleasanton was required to, but did not, inform Parents that they had the right to have Student assessed for special education. Student also alleges Pleasanton staff misrepresented to Parents that Student was at grade level and functioning the same as typical peers, although Student was not. Whether Pleasanton failed to provide Parents with mandated information, or made misrepresentations that Parent's complaints were already resolved, are issues of fact and law to be determined after an evidentiary hearing. The motion to dismiss Issues 2a and 3a is denied.

Pleasanton seeks dismissal of Issue 9 because it alleges that Pleasanton's actions or inactions violated Student's rights under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), called Section 504, Section 1983 of Title 42 United States Code,

the Americans with Disability Act (42 U.S.C. §§ 12101, et seq.), called ADA, Title VI (42 U.S.C. § 2000d, et seq.), called Title VI, or other federal and state civil rights acts.

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 FAPE 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 on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to such child. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims under Section 504, the ADA, Title VI, or other federal or civil rights statutes. Issue 9 is dismissed as to Pleasanton.

ORDER

1. Pleasanton's motion to dismiss those parts of Student's claims in Issues 2a and 3a against it arising more than two years prior to June 24, 2024, is denied.
2. Pleasanton's motion to dismiss Student's Issue 9 is granted.

3. This matter shall proceed as scheduled on the remaining claims.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings