

This matter comes before the Panel Chairperson by Respondent's Motion to Dismiss. The parties each filed briefs containing allegations of facts, statements of law, and arguing their respective points. All of the pleadings were filed in a timely manner in order for this Chairperson to issue a decision.

FINDING OF FACTS

Petitioner filed a request for due process dated March 20, 2006 and it was amended on April 12, 2006 as authorized by Order of the Panel Chairperson.

Respondent filed its Motion to Dismiss on the basis that the relevant statute of limitations had run against the appeal.

Petitioner's request for due process related to two separate school years: 2002-2003 and 2003-2004. Both of the relevant school years have ended.

The relevant statute of limitations is two (2) years running from the last date that action was taken of an adverse nature from which an appeal could be taken.

The IEP for the 2003-2004 school year was completed sometime in August 2003 with the parent's involvement and it was implemented.

The IEP team met again on May 3, 2004 for extended school year scheduling in the summer of 2004 with the parents in attendance.

The last act from which a request for due process could be filed was in May 3, 2004 or, alternatively as of August 2003.

There was adequate notice provided to the parents concerning the ability to challenge the determination for the 2003-2004 school year.

There is no allegation that the action taken as a result of the May 2004 review was at issue.

The last act pre-dating that action was the IEP activity in August 2003.

CONCLUSIONS

Therefore, Respondent's Motion to Dismiss is well founded in that the two (2) year statute of limitation has run precluding the panel from exercising jurisdiction in this matter because the request for due process was not filed in a timely manner because the last act from which a request could be filed took place in August 2003.

ORDER

It is ordered that the due process hearing is cancelled because of lack of jurisdiction and the matter is hereby dismissed. So ordered this 23rd day of May, 2006 by

Ivan L. Schraeder
Panel Chairperson
Schraeder Law Firm
4579 Laclede Ave., Suite 142
St. Louis, MO 63108
314.454.1500 FAX 314.454.0098

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing ORDER GRANTING THE MOTION TO DISMISS was served via first class mail, postage paid, this 23rd day of May 2006, upon:

Mr. Ernest G. Trakas
Attorney at Law
425 S. Woods Mill Road, Suite 300
St. Louis, MO 63017

Mr. Stephen Walker
Attorney at Law
2345 Fairmount Blvd.
Beachwood, Ohio 44122

Mr. Rand Hodgson
10204 South Outer Belt Road
Oak Grove, MO 64075

Mr. George Wilson, Director, Special Education
Springfield School District
639 West Chestnut Expressway
Springfield, MO 65802

Ms. Margaret Strecker, Director
Special Education Compliance
DESE
P. O. Box 480
Jefferson City, MO 65102-0480

Ivan L. Schraeder, Panel Chairperson
Schraeder Law Firm
4579 Laclede Ave., Suite 142
St. Louis, MO 63108
314.454.1500 FAX 314.454.0098