

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL DISTRICT.

OAH CASE NUMBER 2019061061

ORDER DENYING MOTION TO DISMISS FOR  
STATUTE OF LIMITATIONS

OCTOBER 4, 2019

On June 24, 2019, Parent on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Mateo-Foster City School District.

On September 24, 2109, San Mateo-Foster City filed a Motion to Dismiss, alleging that Student had raised claims that occurred before the start of the statute of limitations, which prevents claims being brought related to events occurring before that time period. On September 27, 2019, Student filed an opposition to the motion, and San Mateo-Foster City filed a reply on September 30, 2019.

## APPLICABLE LAW

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. A due process complaint: "must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law." (34 C.F.R. § 300.507(a)(2) (emphasis added).) Based upon this authority, states are permitted to adopt their own statute of limitations,

California has adopted its own discovery rule. California's law states that a claim accrues for purposes of the statute of limitations when a parent learns of the underlying facts that form a basis for the action. (Ed. Code, § 56505, subd. (l).) Knowledge that a student's education is inadequate is sufficient for the statute of limitations to begin to accrue. (*M.M. & E.M. v. Lafayette School Dist.* (N.D.Cal., Feb. 7, 2012 Nos. CV 09– 4624, 10–04223 SI) 2012 WL 398773, \*\* 17 – 19 (M.M.), *affd. in part & revd. in part* (9th Cir. 2014) 767 F.3d 842, 858-859; see also, *M.D. v. Southington Bd. of Educ.* (2d Cir. 2003) 334 F.3d 217, 221.) In *M.M.*, the District Court found that "parents had sufficient knowledge of the educational goings-on inside and outside of the classroom to be put on notice of their underlying claims." (*M.M., supra*, at \*18.) In other words, the statute

of limitations begins to run when a party is aware of the underlying facts that would support a legal claim, not when a party learns that the action was wrong. (*M.M. supra*, at \*18; see also *Bell v. Bd. Of Educ. of the Albuquerque Pub. Schs.* (D.N.M.2008) 2008 WL 4104070, at \*17.)

It does not matter if the parent understood that the inadequacy was a legal claim, just that parents had knowledge of the problem. Congress intended to obtain timely and appropriate education for special needs children. Congress did not intend to authorize the filing of claims under the IDEA many years after the alleged wrongdoing occurred. (*Alexopoulos v. San Francisco Unified School Dist.* (9th Cir. 1987) 817 F.2d 551, 555; *Student v. Brea Olinda Unified School District* (November 24, 2009) OAH Case Number 2009050815.) “[A] cause of action accrues, and the statute of limitations begins to run, when a plaintiff knows or has reason to know of the injury which is the basis of his action.” (*Alexopoulos, supra*, 817 F.2d at p. 554.)

IDEA and its state law counterparts do not set forth a procedure for dismissing IDEA-related claims on the merits without first affording the petitioning party a chance to develop a record at hearing. (20 U.S.C. § 1400 et seq.) The Administrative Procedures Act requires that parties appearing before OAH receive notice and an opportunity to be heard, including the opportunity to present and rebut evidence. (Gov. Code § 11425.10, subd. (a)(1).) However, at a prehearing conference, an administrative law judge may address such matters, “as shall promote the orderly and prompt conduct of the hearing.” (Gov. Code, § 11511.5, subd. (b)(12). Similarly, at hearing an ALJ may take action “to promote due process or the orderly conduct of the hearing.” (Cal. Code Regs., tit. 1 § 1030, subd. (e)(3).)

## DISCUSSION

In the present matter, Student asserts that San Mateo-Foster City made misrepresentations to Parents and withheld information that it was required to provide. Because of these actions, Student argues that he can raise claims dating back to 2008, when Student was in kindergarten. The misrepresentations that Student cites as reasons to disregard the statute of limitations are of three types: statements that Student did not have a disability that would qualify him for special education services, that Student did not need to be assessed for special education eligibility, and that Student was performing at grade level. San Mateo-Foster City asserts that Student failed to allege sufficient facts to pierce the two-year statute of limitations.

Here, a factual dispute exists as to whether an exception to the two-year statute of limitations applies regarding the alleged conduct by San Mateo-Foster City in failing to provide Parents with their procedural rights and safeguards, thereby impeding their ability to initiate a due process hearing request prior to June 2017. This factual dispute can only be resolved through an examination of the evidence at the commencement of the hearing. Accordingly, San Mateo-Foster City's motion to dismiss time-barred claims is denied.

## ORDER

San Mateo-Foster City's Motion to Dismiss is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Chris Butchko

Administrative Law Judge

Office of Administrative Hearings