

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CALIFORNIA CONNECTIONS ACADEMY.

OAH CASE NUMBER 2021080880

ORDER DENYING MOTION TO DISMISS FOR

STATUTE OF LIMITATIONS

SEPTEMBER 14, 2021

On August 29, 2021, Student filed a Request for Due Process Hearing, a also called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming California Connections Academy as respondent.

On September 9, 2021, California Connections filed a Motion to Dismiss, alleging that Student's complaint raised claims outside the statute of limitations without stating facts asserting an exception to the statute of limitations. On September 10, 2021, Student filed an opposition to the motion. California Connections filed a reply to Student's opposition on September 14, 2021, and Student filed a reply to California Connections' reply that same day.

APPLICABLE LAW

The Individuals with Disabilities in Education Act, also called, the IDEA, prescribes a statute of limitations in a special education case that is two years from the date the filing party knew or should have known about the alleged action that forms the basis of the complaint, unless a state has a specific time limitation for requesting a special education due process hearing. (20 U.S.C. § 1415(f)(3)(C).) California has such a statute. It mandates that claims be limited to those filed two years from the date the filing party knew or had reason to know of the facts underlying the basis for the request; and, additionally, provides for two exceptions to the limitations statute: 1) in cases of misrepresentation by the local educational agency that it had solved the problem forming the basis of the due process hearing request; and 2) in cases where there has been withholding of information by the local educational agency from the Parents or that was required to be disclosed pursuant to Education code section 56504. (Ed. Code §56505, subd. (I).) This is not a statute that is strictly based on the occurrence of Student's claim. (*Avila v. Spokane School District 81*, (9th Cir.2017) 852 F. 3d 936, 941-942.)

DISCUSSION

California Connections asserts, without citing binding or persuasive legal authority, that Student's complaint must be dismissed because his claims predate August 29, 2019; and no facts were pled stating a basis for one of the applicable exceptions to the statute of limitations as enumerated in California Education Code section 56505, subdivision (I). Prior OAH Special Education decisions are not precedential authority. (Govt. Code § 11425.60; tit. 5, Cal Code Regs, § 3085.) California Connections' interpretation of the special education statute of limitations overlooks the fact that the applicable limitation period is not strictly bound by the date of the filing of

Student's claims. California's two-year special education statute of limitations is based on "the date the filing party knew or had reason to know of the facts underlying the basis for the request." (Ed. Code §56505, subd. (l).) No statute of limitations applies if one of the specified exceptions to the statute of limitations prevents a claim from being filed. (Ed. Code §56505, subd. (l)(1) and (2).)

California Connections' position further overlooks the applicable special education pleading standard. Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].)

California Connections has been put on notice that Student may raise claims that arose prior to August 29, 2019. California Connections did not file a Notice of Insufficiency asserting more specific facts were required, including the facts that would form the basis for extending or eliminating the statute of limitations (20 U.S.C. § 1415 (c)(2)(A); Ed. Code § 56502, subd. (d)(1).) A ruling that a complaint is insufficient generally affords Student the opportunity to amend the complaint and add those facts necessary to meet the notice pleading standard. The IDEA and California state law specifically lay out the procedure by which the failure to state facts in a complaint can be remedied. Here, no Notice of Insufficiency was filed and, even had it been, facts are included in the complaint alleging a basis for extending the statute of limitations. Absent a timely request for a ruling of insufficiency, the complaint is deemed sufficient and proceeds to hearing as is. (20 U.S.C. § 1415 (c)(2)(A); Ed. Code § 56502 subd. (d)(1).) Student shall have the burden of proving entitlement to raise claims prior to August 29, 2019 at hearing. There is no summary judgment process in special education cases. Whether Student may raise claims pertaining to events that occurred prior to August 29, 2019 is a question of fact that must be adjudicated at hearing.

ORDER

1. California Connections' Motion to Dismiss is denied.
2. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings