

CLIENT NEWS BRIEF

Ninth Circuit Loosens Time Limits on IDEA Claims

April 2017
Number 19

In a case of first impression, the Ninth Circuit Court of Appeals has ruled in favor of looser time limits on Individuals with Disabilities Education Act (IDEA) claims. (*Avila v. Spokane School District 81* (9th Cir., Mar. 30, 2017, No. 14-35965) ___ F.3d ___ <<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/30/14-35965.pdf>>.) The Ninth Circuit's ruling reversed a district court decision which held that some of the plaintiff parents' claims were time-barred under a provision of the IDEA that establishes a two-year statute of limitations based on the date of a due process complaint.

In 2006, student G.A.'s parents requested that the Spokane School District 81 assess G.A. for special education services due to his behavior issues. The District found that G.A. did not qualify for special education services. In 2007, G.A. was diagnosed with Asperger's disorder by a private physician and his parents asked the District to reassess him. In April 2008, the District's psychologist found G.A. eligible for special education services under the category of autism and in February 2009, G.A.'s parents consented to an Individualized Educational Program (IEP). A year later, the District reassessed G.A. and developed another IEP. G.A.'s parents did not agree with the assessment report or the proposed IEP, and they asked the District for an independent educational evaluation (IEE). The District denied the request for an IEE and G.A.'s parents filed a request for due process hearing.

An administrative law judge (ALJ) ruled that the District's reassessment was appropriate and that G.A.'s parents were not entitled to a publicly-funded IEE. The ALJ also ruled in favor of the District on nine procedural claims concerning the District's alleged failure to give prior written notice and two substantive claims alleging that the District denied G.A. a free appropriate public education (FAPE) by failing to identify G.A. as a child with a disability in 2006 and failing to assess G.A. in areas of suspected disability in 2006 and 2007.

In so ruling, the ALJ determined that some of the parents' claims were time-barred, reasoning that because their due process complaint was filed on April 26, 2010, any complaints regarding the District's actions prior to April 26, 2008 were time-barred by a two-year statute of limitations based on the date of their due process complaint. G.A.'s parents appealed the ALJ's decision to the district court, which affirmed the ALJ's ruling, including the ruling regarding the IDEA's two-year limitation on claims arising before April 26, 2008.

G.A.'s parents then appealed to the Ninth Circuit, arguing that the district court improperly applied the IDEA's statute of limitations to their substantive claims. In addressing the issue regarding the statute of limitations, the Ninth Circuit noted that the IDEA has two conflicting sections regarding the statutory timeline to file for due process. Specifically, the provision found at 20 U.S.C. § 1415(b)(6)(B) allows parents to file a complaint for violations "that occurred not more than [two] years" before they knew or should have known about the actions that form the basis of their complaint. The second provision, 20 U.S.C. § 1415(f)(3)(C), requires a parent to file a due process complaint within two



Marcy Gutierrez
Partner
Sacramento Office
mgutierrez@lozanosmith.com



Michelle Truong
Associate
San Diego Office
mtruong@lozanosmith.com



As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

CLIENT NEWS BRIEF

April 2017
Number 18

years of the date they knew or should have known about the underlying conduct. The Ninth Circuit observed that the first provision focuses more on the timing of the violation itself, while the second provision focuses more on the timing of the complaint. In an attempt to harmonize these two provisions, the court found that 20 U.S.C. § 1415(f)(3)(C), which focuses on the date of the discovery of the alleged IDEA violation, is controlling over the other IDEA provision. Thus, the Ninth Circuit remanded the case back to the district court for a determination of when G.A.'s parents actually discovered the alleged violation of the IDEA.

The Ninth Circuit's interpretation of the IDEA means that parents must file for a due process hearing within two years of the date that they knew or should have known about the alleged action that formed the basis of their complaint. According to this decision, claims are not limited to two years preceding the date of the filing of a due process complaint. This is important for districts to keep in mind because the application of this decision means there is no "automatic" two-year bar of claims based upon the date of the filing of a due process complaint.

For more information on the *Avila* case or IDEA claims in general, please contact the authors of this Client News Brief or an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.