



2.

Petitioner's Complaint briefly mentions an incident that occurred in his freshman year at ██████████ High School. The remainder of his Complaint focuses on an incident that occurred at the beginning of his sophomore year. Specifically, Petitioner asserts that he was attacked by male students after getting off the school bus on the way home. Petitioner asserts that the male students began hitting him and he attempted to spray them with pepper spray. The altercation occurred on August 15, 2014, off of school grounds. (Complaint and attachments thereto.)

3.

On August 25, 2014, the District convened a manifestation determination meeting to determine if Petitioner's involvement in the altercation was a manifestation of his disability. Petitioner and his parents attended the meeting. The attendees of the meeting determined that Petitioner's behavior during the altercation was a manifestation of Petitioner's disability and that Petitioner's behavior was not a direct result of the District's failure to implement the IEP. (Calloway Aff. ¶ 3, Ex. 1 attached thereto.)

4.

Petitioner's last date of attendance at ██████████ High School was September 12, 2014. He withdrew from the District as of September 17, 2014. (Calloway Aff. ¶¶ 4, 5, Exs. 2, 3 attached thereto.)

### *Conclusions of Law*

1.

The Individuals with Disabilities Education Act ("IDEA")<sup>2</sup> contains a two-year statute of limitations. Specifically, it provides, as follows:

---

<sup>2</sup> In 2004, the act was reauthorized and renamed as the Individuals with Disabilities Education Improvement Act of 2004. 108 P.L. 446. For the sake of simplicity, the undersigned will continue to refer to the act as the Individuals

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this part [20 USCS §§ 1411 et seq.], in such time as the State law allows.

20 U.S.C. § 1415(f)(3)(C); *see also* 34 C.F.R. §§ 300.507(a)(2) & 300.511(e). Georgia's regulations also contain a two-year statute of limitations for due process complaints. Ga. Comp. R. & Regs. 160-4-7-.12(3)(a).

2.

“Statutes of limitations, which ‘are found and approved in all systems of enlightened jurisprudence’ . . . represent a pervasive legislative judgment that it is unjust to fail to put the adversary on notice to defend within a specified period of time and that ‘the right to be free of state claims in time comes to prevail over the right to prosecute them.’” United States v. Kubrick, 444 U.S. 111, 117 (1979) (quoting Wood v. Carpenter, 101 U.S. 135, 139 (1879) and Order of R. Telegraphers v. Ry. Express Agency, Inc., 321 U.S. 342, 349 (1944)). Limitations periods strike a balance between giving plaintiffs a reasonable time to file their claims and protecting “defendants and the courts from having to deal with cases in which the search for truth may be seriously impaired by the loss of evidence, whether by death or disappearance of witnesses, fading memories, disappearance of documents, or otherwise.” Kubrick, 444 U.S. 111. In the context of the IDEA, the statute of limitations has the added benefit of promoting the prompt resolution of disputes in furtherance of the "IDEA's goal of promptly resolving educational disputes."<sup>3</sup>

---

with Disabilities Education Act (i.e., IDEA).

<sup>3</sup> Cory D. v. Burke Cty. Sch. Dist., 285 F.3d 1294, 1300 (11th Cir. 2002); *see also* Powers v. Ind. Dep't of Educ., Div. of Special Educ., 61 F.3d 552, 556 (7th Cir. 1995) (noting the "general policy under the IDEA to "resolve educational disputes as quickly as possible); Nieuwenhuis by Nieuwenhuis v. Delavan-Darien Sch. Dist. Bd. of Educ., 996 F. Supp. 855, 868 (E.D. Wis. 1998) (holding the IDEA "requires prompt rather than protracted, resolution of disputes concerning the disabled student's education") (citing Dell v. Bd. of Educ., 32 F.3d 1053, 1060 (7th Cir. 1994)).

3.

The Court of Appeals for the Eleventh Circuit has acknowledged the importance of bringing IDEA claims in a timely manner. In a case which predates the inclusion of a specific limitations period in the statute, the Eleventh Circuit determined that a short limitations period was necessary for judicial review under IDEA because a longer limitations period would lead to "appropriate remedies [being] delayed by potentially protracted litigation."<sup>4</sup> The Eleventh Circuit further noted that a longer limitations period would cause "an already disadvantaged child's education [to] stagnate" as the child is "awaiting placement decisions that may become obsolete even before implementation."<sup>5</sup>

4.

IDEA provides two exceptions, which if established would toll the statute of limitations. The two-year statute of limitations will not bar a petitioner's claims if the petitioner was prevented from filing a due process complaint due to either of the following factors:

- (i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or
- (ii) the local educational agency's withholding of information from the parent that was required under this part [20 USCS §§ 1411 et seq.] to be provided to the parent.

20 U.S.C. § 1415(f)(3)(D); *see also* 34 C.F.R. § 300.511(f).

5.

The exceptions will toll the statute of limitations only if they prevented Petitioner from filing a complaint. D.K. v. Abington Sch. Dist., 696 F.3d 233, 246 (3d Cir. 2012). For the first tolling exception to apply, Petitioner must prove that he was prevented from filing a complaint because the District made a specific, intentional misrepresentation that it had resolved the

---

<sup>4</sup> Cory D., 285 F.3d at 1299.

<sup>5</sup> Id.

problem forming the basis of their complaint. Id. at 245. For the second tolling exception to apply, Petitioner must prove that he was prevented from filing a complaint because the District withheld statutorily mandated disclosures. Id. at 246. If there was no requirement to provide the information referenced in the second exception, then Petitioner cannot establish the exception. Id.


6.

Petitioner filed his Complaint on September 22, 2016. The allegations in Petitioner's Complaint relate to events occurring in August of 2014 or earlier. Petitioner was involved in the August 15, 2014 altercation and he participated in the August 25, 2014 manifestation determination meeting. Therefore he knew about the events at the time that they occurred. Further, Petitioner has made no showing that either of the exceptions outlined in 20 U.S.C. § 1415(f)(3)(D) applies in the current case. Accordingly, Petitioner's claims are barred by the two-year statute of limitations.<sup>6</sup>

#### *Decision*

For the foregoing reasons, Petitioner's claims are barred by the statute of limitations. Accordingly, the District's motion, which had been construed as a motion for summary determination, is **GRANTED** and Petitioner's Complaint is **DISMISSED** with prejudice.

SO ORDERED, this 24<sup>th</sup> day of October, 2016.

  
STEPHANIE M. HOWELLS  
Administrative Law Judge

---

<sup>6</sup> Because this tribunal is granting the District's motion on the basis of the statute of limitations, it is unnecessary to address the other grounds for the District's motion.