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SPECIAL EDUCATION DUE PROCESS COMPLAINT STATUTE OF LIMITATIONS REDUCED TO TWO YEARS ON OCTOBER 10, 2006

District special education programs will have reduced exposure in new due process complaints filed as of October 10, 2006. On that date, California's statute of limitations for due process claims goes from three years to two years. The State Legislature amended the Education Code one year ago to comply with the changes in the federal 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA). Among these amendments was a provision that retained the pre-existing three-year limit until October 9, 2006. California is now in line with federal law with a two-year limitation on special education due process claims. The IDEA gives states the option of providing more, but no less than, two years for parents to bring due process complaints.

Due process complaints filed up to October 9, 2006, may still go back three years. On and after October 10, the law still allows parents to raise issues arising before the statutory limit in specific circumstances: if they can prove that the late claims were because the District misrepresented that it had solved the problem forming the basis of the issue or the District withheld information concerning the problem from the parents.

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