

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-3252

L.W.,

Appellant

v.

JERSEY CITY BOARD OF EDUCATION

On Appeal from the United States District Court
for the District of New Jersey
(D.C. No. 2:22-cv-06483)
District Judge: Honorable Susan D. Wigenton

Argued on November 3, 2025

Before: KRAUSE, PHIPPS and ROTH, *Circuit Judges*

(Opinion filed: August 28, 2026)

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OPINION*

ROTH, *Circuit Judge*

In this special education case, Plaintiff L.W. sued her former school district for failing to properly identify her as a student with special needs or to properly communicate her eligibility for special education-related services. The District Court concluded her claims were time-barred and granted summary judgment for the school district. We agree and affirm the District Court's judgment.

I. BACKGROUND

A. Family and Educational History

L.W. was a student in Defendant Jersey City Board of Education's (Jersey City) schools from kindergarten (1999–2000) until her ninth-grade year (2009–2010). L.W.'s childhood was difficult; both her mother and father struggled with substance abuse and faced investigations by law enforcement and by New Jersey's Division of Youth and Family Services (DYFS). As a result, L.W.'s physical and legal guardianship were

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

changed throughout her childhood. Her parents shared joint physical and legal custody between December 1999 and December 2007, but her father had full responsibility for her educational and medical needs. After her father lost custody and visitation rights in December 2007, DYFS temporarily assumed legal custody over L.W. until May 2008, at which point her mother reassumed both physical and legal custody.

The first record of L.W.'s educational problems was in first grade: an evaluation by a Child Study Team (CST) for special education, based on a teacher's concern. The school psychologist recommended placement in a special program after identifying several cognitive functioning deficiencies which may have contributed to her academic difficulties. Jersey City, however, notified the father that L.W. was ineligible for special education.

In the spring of 2008, L.W., as an 8th grader, began home instruction due to frequent absences that stemmed from depression and adverse interactions with her peers. The social worker assigned to her case requested that Jersey City provide her with home instruction for the summer. Jersey City agreed but explained to L.W. and her mother that home instruction could continue until a more appropriate high school program was selected for her in the fall.

In the fall, the New Jersey Superior Court, presiding over her DYFS case, ordered Jersey City to increase L.W.'s home instruction to daily sessions and to evaluate her for special education services. Her mother, who by this time had assumed legal and physical custody of L.W., consented to the evaluation.

On January 20, 2009, Jersey City organized a meeting between L.W., her mother, and L.W.'s Child Study Team to review L.W.'s evaluations, discuss Jersey City's proposed Individualized Education Plan (IEP), and consider L.W.'s eligibility for special education and services. The mother, however, did not attend due to illness. Jersey City rescheduled the meeting for the following week.

On January 27, Jersey City and L.W.'s Child Study Team reconvened, with the mother planning to attend by phone. However, when the Child Study Team called, the mother refused to participate in the meeting and hung up the phone. Both Jersey City and L.W. made several more attempts to call the mother but were unsuccessful. Although the Child Study Team found that L.W. was eligible for special education and services due to a learning disability, Jersey City could not implement the proposed IEP without the mother's consent.

L.W. continued home instruction for the remainder of the 2008–2009 school year but began general ninth-grade classes in September 2009 without an IEP in place. L.W. immediately struggled with attendance, and within weeks she stopped attending school altogether. In May 2010, one day after her sixteenth birthday, Jersey City removed L.W. from the attendance rolls due to excessive absences. L.W. never re-registered for classes.

B. Procedural History and Administrative Findings

On December 19, 2016, L.W., who was then 22 years old, filed a due process petition with the NJ Office of Administrative Law (OAL) against Jersey City for alleged

violations of the Individuals with Disabilities in Education Act (IDEA),¹ Americans with Disabilities Act of 1990 (ADA),² § 504 of the Rehabilitation Act of 1973 (§ 504),³ and New Jersey Law Against Discrimination (LAD).⁴ L.W. claimed that Jersey City owed her compensatory education and damages for failing to comply with the statutes' substantive and procedural requirements which allegedly deprived her of a free appropriate public education (FAPE).

The Administrative Law Judge (ALJ) concluded that L.W.'s due process petition was untimely under the IDEA's two-year statute of limitations, finding that there were several instances when L.W.'s parents knew or should have known that her rights were being violated. In addition, the ALJ found that no exceptions to the statute of limitations applied because Jersey City sufficiently communicated with the adults responsible for L.W. L.W. filed a complaint in federal court seeking reversal of the NJ OAL decision, and the District Court remanded the case to the NJ OAL. After holding a due process hearing, NJ OAL held (1) that L.W. lacked standing to assert any claims under the IDEA until her parental rights transferred to her when she turned eighteen, (2) that the IDEA's two-year statute of limitations barred L.W. from bringing her IDEA claims, (3) that the exceptions to the statute of limitations did not apply, and (4) that Jersey City was under no obligation to provide additional process after the mother refused consent.

¹ 20 U.S.C. §§ 1400–19.

² 42 U.S.C. §§ 12101, *et seq.*

³ 29 U.S.C. § 794.

⁴ N.J. Stat. Ann. §§ 10:5-1, *et seq.*

L.W. again sought reversal of the NJ OAL’s decision by filing the instant action. The District Court granted Jersey City’s summary judgment motion, finding that the IDEA’s two-year statute of limitations barred L.W.’s IDEA, ADA, and § 504 claims. L.W. appealed.⁵

II. DISCUSSION⁶

The IDEA, like the ADA and § 504 of the Rehabilitation Act, provides protections for students with disabilities.⁷ Under the IDEA, a student has a right to receive, and a school district is obligated to provide, a FAPE which “emphasizes special education and related services designed to meet [the student’s] unique needs” until the student reaches the age of twenty-one.⁸

In cases arising under the IDEA, we apply a modified de novo standard of review, “giving due weight and deference to the findings in the administrative proceedings.”⁹ We “must accept the state agency’s credibility determinations unless the non-testimonial, extrinsic evidence in the record would justify a contrary conclusion.”¹⁰ Although statute of limitations claims are subject to plenary review as conclusions of law, whether L.W. proved an exception to the statute of limitations is subject to clear error as a question of

⁵ The District Court also denied L.W.’s motion for reconsideration.

⁶ The District Court had jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1367, and 20 U.S.C. § 1415(i)(2). We have jurisdiction under 28 U.S.C. § 1291.

⁷ *Le Pape v. Lower Merion Sch. Dist.*, 103 F.4th 966, 978 (3d Cir. 2024); *see also id.* n.7 (explaining relevant provisions of the statutes).

⁸ 20 U.S.C. §§ 1400(d)(1)(A), 1412(a)(1)(A); *Ferren C. v. Sch. Dist. of Philadelphia*, 612 F.3d 712, 717 (3d Cir. 2010).

⁹ *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 243 (3d Cir. 2012) (citation modified).

¹⁰ *Id.*

fact.¹¹ As the party seeking relief and the party challenging the administrative decision, L.W. bears the burden of persuasion on her IDEA claims.¹²

A. L.W.’s IDEA Claims are Barred by the Applicable Two-Year Statute of Limitations

If a parent or agency believes a district has violated a child’s rights under the IDEA, they must file a due process complaint within two years of the date they knew or should have known of the violation forming the basis of the underlying complaint, unless the state has its own statute of limitations, in which case the state’s statute controls.¹³ New Jersey has a two-year statute of limitations for personal injury actions, but no separate statute of limitations for IDEA cases.¹⁴

“[A]lthough a child’s right to special education under the IDEA does not turn on parental vigilance, parental vigilance is vital to the preservation and enforcement of that right.”¹⁵ “Claims that are known or reasonably should be known to parents must be brought within two years of that ‘knew or should have known’ date.”¹⁶ “[P]arents may not, without satisfying one of the two statutory exceptions, knowingly sit on their rights or attempt to sweep both timely and expired claims into a single ‘continuing violation’ claim brought years later.”¹⁷

¹¹ *Id.*

¹² *Id.*

¹³ *G.L. v. Ligonier Valley Sch. Dist. Auth.*, 802 F.3d 601, 609 (3d Cir. 2015) (citing 20 U.S.C. § 1415(f)(3)(C)).

¹⁴ N.J. Stat. Ann. § 2A:14-2(a) (providing two-year statute of limitations for personal injury actions).

¹⁵ *G.L.*, 802 F.3d at 625 (citation modified).

¹⁶ *Id.* (citation modified).

¹⁷ *Id.* (citing *D.K.*, 696 F.3d at 248).

Both the ALJ and the District Court found that L.W.'s IDEA claims were untimely because more than two years had passed since her parents knew or should have known about the alleged actions that formed the basis of her complaint.¹⁸ We agree.

L.W.'s first IDEA claim (Count 1) alleges that Jersey City failed its Child Find obligations when L.W. was in the first grade because it should have identified her as a student who had a disability and was in need of special education and related services. But L.W.'s father gave his consent to, and was involved in, L.W.'s evaluations for special education.¹⁹ The time for the father to bring a Child Find claim would have been within two years of Jersey City's determination that L.W. was not eligible for special services.²⁰

L.W.'s larger group of IDEA claims alleges that Jersey City violated the IDEA during her eighth- and ninth-grade years by not making reasonable efforts to obtain her parent's consent so that she could receive special education and related services (Count 2);

¹⁸ We recognize the somewhat unusual posture of this case because the plaintiff is an adult student suing for her own compensatory education. However, because the alleged IDEA violations occurred more than two years before L.W. turned eighteen, our proper inquiry is what L.W.'s *parents* knew or should have known, not necessarily what *she* knew or should have known.

¹⁹ Because the father had full responsibility over L.W.'s educational needs during her first-grade special education evaluations and the two years thereafter, the mother's knowledge about L.W.'s eligibility during this time is immaterial. And although the mother may have shared joint physical and legal custody of L.W. with the father during this time period, she does not maintain a separate cause of action. But even if she did, the statute of limitations for the Child Find claim would have expired with the rest of L.W.'s IDEA claims based on when the mother knew or should have known about the underlying violation.

²⁰ To the extent that L.W. argues the Child Find claim was a continuing violation that ran from the first through eighth grades because Jersey City should have found L.W. eligible for special education, we expressly rejected that argument in *G.L.*, 802 F.3d at 625, because such argument effectively asks that we allow her parents to sit on their rights without consequence.

by failing to properly evaluate L.W. for special education, develop an appropriate IEP, or communicate with the mother, using required documentation (Count 4); and by denying L.W. a FAPE in ninth grade (Count 5). L.W. also alleges that Jersey City violated the IDEA by failing to inform her that she has rights under the IDEA when she turned eighteen (Count 3).²¹

L.W. argues that the District Court improperly drew inferences against her when it should have viewed any disputed facts in the light most favorable to her as the nonmoving party on a summary judgment motion. But, as we previously explained in *D.K. v. Abington School District*, whether a school district fulfilled its FAPE obligations is subject to clear error review as a question of fact; we consider such a factual finding from the administrative proceedings to be prima facie correct.²²

Here, some of the ALJ's findings are fatal to L.W.'s assertion that her mother did not know about any potential violation, including that (1) her mother consented to L.W.'s evaluation and received statutorily-required documentation; (2) she hung up the phone and did not answer subsequent calls when Jersey City contacted her to discuss L.W.'s draft IEP; (3) she had provided the Child Study Team with forms about her participation in the IEP; (4) she was home during visits by DYFS and was aware that her consent was needed to implement L.W.'s IEP; and (5) she acknowledged in 2010 that L.W. may have been

²¹ See 20 U.S.C. § 1415(m)(1). See also N.J. Admin. Code § 6A:14-3.7(e)(14) (providing that a student and parent must be informed that rights will transfer to student on reaching the age of majority); *id.* § 6A:14-2.3(f) (providing written notice requirements when a district proposes or declines to initiate or change a student's educational placement).

²² 696 F.3d at 243.

removed from the school attendance rolls. Those findings are well-supported by the record, specifically by the testimony of L.W.’s social worker who the ALJ found to be a “highly credible, trustworthy, and reliable witness.”²³ We see no basis to disturb the ALJ’s credibility determinations or factual findings, even if they do not squarely align with L.W.’s testimony.

Even assuming that Jersey City somehow failed in how it crafted L.W.’s draft IEP or that her mother did not fully comprehend her role in L.W.’s special education process, her mother actively prevented herself from learning about the violations—or, “should have known” about the violations—by disengaging and refusing to cooperate with Jersey City. As the ALJ correctly noted, the appropriate time for her mother to file IDEA claims may have been in 2009 when she refused to consent to L.W.’s IEP or in 2010 when L.W. unenrolled from school. We need not decide the exact time at which the two-year statute of limitations began to run. It is sufficient that the mother never filed any claim, and that L.W.’s due process petition filed in 2016 was untimely.

With respect to Count 3, alleging that Jersey City was obligated to inform L.W. of her IDEA rights when she turned 18, the ALJ found that L.W. had received notice of her IEP in 2009. Thus, L.W. knew or should have known of an injury under the IDEA as of the date she turned 18 on May 2, 2012, and her due process petition filed in 2016 was untimely.

²³ Appx. 39.

Accordingly, the District Court did not err by concluding that L.W.'s IDEA claims were time-barred by the IDEA's statute of limitations.

B. The District Court Did Not Err by Finding That an Exception to the Two-Year Statute of Limitations Did Not Apply

Alternatively, L.W. argues that the District Court improperly concluded that the exceptions to the IDEA's statute of limitations did not apply to her claims. Again, we disagree.

The IDEA provides two exceptions which toll the statute of limitations if the parent was prevented from requesting a due process hearing or filing a complaint due to (1) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or (2) the local educational agency's withholding of information that was required to be provided to the parent.²⁴ The District Court adopted the ALJ's findings and held that L.W. failed to demonstrate the applicability of either exception.

L.W. argues that summary judgment should not have been granted because conclusions concerning causation are questions of fact for the jury. Whether L.W. proved an exception to the statute of limitations is subject to clear error as a question of fact, and we must afford the ALJ's factual findings due deference under our modified de novo standard of review.²⁵ But L.W. fails to demonstrate that the District Court's conclusion that neither exception applied was clear error.

²⁴ *D.K.*, 696 F.3d at 244 (citing 20 U.S.C. § 1415(f)(3)(D)(i)–(ii)).

²⁵ *Id.* at 243.

The District Court’s opinion provides several examples demonstrating that L.W. and her mother were aware of the alleged violations that underlie L.W.’s complaint but chose not to act. As the IDEA’s language provides, mere specific misrepresentations or withholding of information are insufficient to toll the statute of limitations, and a parent must have been prevented from acting *because of* misrepresentations or withholding. Here, L.W. has not established the requisite causation.

C. L.W.’s ADA and § 504 Claims Are Time-Barred by the IDEA’s Two-Year Statute of Limitations

Lastly, L.W. argues that the District Court should not have applied the IDEA’s statute of limitations to her ADA and § 504 claims.²⁶ We disagree.

We apply the IDEA’s statute of limitations to ADA and § 504 claims when those claims are based on the same actions as the simultaneously pleaded IDEA claims.²⁷ Here, the District Court correctly found that the ADA and § 504 claims were “entirely premised on the denial of educational services,” and it dismissed those claims on statute of

²⁶ We note that the District Court erred when it reviewed those claims under a modified *de novo* standard of review. In *Le Pape*, we explained that “the Supreme Court has required district courts to apply modified *de novo* review only in their review of IDEA claims,” and we “decline[d] to extend that review to claims under the ADA and Section 504.” 103 F.4th at 983. The District Court should have “performed the inquiry demanded by Fed. R. Civ. P. 56.” *Id.* at 979. Yet, the court’s error in this case does not warrant remand because our plenary review generates the same result: the IDEA’s two-year statute of limitations applies to L.W.’s ADA and § 504 claims.

²⁷ See *P.P. ex rel. Michael P. v. W. Chester Area Sch. Dist.*, 585 F.3d 727, 736 (3d Cir. 2009) (holding that the IDEA’s two-year statute of limitations applies to § 504 claims); *Esposito v. Ridgefield Park Bd. of Educ.*, 856 F. App’x 367, 370 n.9 (3d Cir. 2021) (explaining that the plaintiff’s ADA claim was subject to the IDEA’s two-year statute of limitations because his ADA claim “hinges on his IDEA claim”).

limitations grounds.²⁸ Even under plenary review, we find that L.W.’s mother should have known of L.W.’s eligibility for services in 2009. The parties jointly stipulated that L.W.’s mother consented to an evaluation for special education in October 2008, received notice of multiple scheduled meetings to discuss an IEP for L.W. in January 2009, and did not attend these scheduled meetings. We conclude that the statute of limitations for L.W., or her parents, to file her ADA and § 504 claims expired at the same time as her IDEA claims.

III. CONCLUSION

For the foregoing reasons, we affirm the District Court’s order, granting summary judgment.²⁹

²⁸ See Appx. 24; *see also P.P.*, 585 F.3d at 737 (applying IDEA statute of limitations for claims made for education under § 504).

²⁹ Because the District Court no longer has subject matter jurisdiction under 28 U.S.C. § 1367, its dismissal of L.W.’s only remaining claim—a state law claim under the New Jersey Law Against Discrimination—was not improper.