BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017041029
v.	ORDER DENYING VENTURA UNIFIED SCHOOL DISTRICT'S MOTION TO BIFURCATE AND FOR EVIDENTIARY HEARING
VENTURA UNIFIED SCHOOL DISTRICT, AND SANTA PAULA UNIFIED SCHOOL DISTRICT	

On April 18, 2017, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Ventura Unified School District (Ventura) and Santa Paula Unified School District (Santa Paula). On July 24, 2017, Ventura filed a motion to bifurcate the due process hearing. Ventura requests OAH to conduct an evidentiary hearing on the issue of whether Student's claims as to Ventura are barred by the statute of limitations before the due process hearing proceeds on Student's claims. OAH did not receive a response from Student or Santa Paula.

Student's complaint alleges, among other facts, that Student resided within the boundaries of Ventura until November 10, 2014, when his family moved to within the boundaries of Santa Paula. Ventura assessed Student for special education eligibility in September 2014. Ventura allegedly did not assess Student at that time for autism, attention deficit hyperactivity disorder, adaptive skills or language and speech impairment. Ventura and Santa Paula jointly held an initial individualized education program meeting on November 21, 2014, and found Student eligible for special education as emotionally disturbed. He attended Santa Paula thereafter. Parent, on an unspecified date, allegedly asked "District to consider and assess for autism and ADHD." The complaint further alleges that Parent "now has had [Student] diagnosed by two different doctors, as a child with autism, and ADHD, and Communication Deficits." Student alleges Mother was "saddened and disappointed that she waited so long to seek an independent evaluation for her son, and instead relied upon the District(s) (sic) assessment and assertions that Student did not need to be assessed for autism, and merely suffered from emotional disturbance."

LEGAL AUTHORITY

Although no special education law or regulation addresses bifurcation of issues, the Office of Administrative Hearings generally looks to civil cases and the California

Administrative Procedure Act (APA) for guidance. Government Code section 11507.3 provides that an administrative law judge on the judge's own motion or on motion of a party may order a separate hearing of any issue, including an issue raised in the notice of defense, or of any number of issues, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy.

Code of Civil Procedure section 598 contains a similar provision for civil trials. The court may make an order, no later than the close of pretrial conference in cases in which such pretrial conference is to be held, when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted, that the trial of any issue or any part thereof shall precede the trial of any other issue.

DISCUSSION AND ORDER

Generally, OAH may bifurcate a hearing where the resolution of a threshold question will determine whether the remainder of a hearing will be necessary. For example, OAH may bifurcate the issue of whether a student is or was a resident of a school district named as a respondent in a complaint to determine whether the district was appropriately named as a party. OAH may also consider bifurcation of a specific legal issue such as the statute of limitations, where determination of the issue may reduce or eliminate issues and determine whether the remainder of the hearing will be necessary.

Ventura argues that bifurcation of the issue of statute of limitations as to Ventura would serve judicial economy if the evidence establishes that neither of the statutory exceptions applies to Student's claims against Ventura. Ventura claims it would then not have to participate further in the due process hearing.

Judicial economy is not served, and the mandate of speedy resolution of claims under the Individuals with Disabilities Education Act cannot be met, by bifurcation under these facts. The hearing in this matter is set for August 8-10, 2017, which is four months after Student's complaint was filed. The parties have requested in their prehearing conference statements at least six days for hearing. A decision in the matter would not be due until at least late September 2017. Bifurcation will result in a delay of the hearing on all substantive issues, and will cause a considerable delay in the resolution of Student's substantive claims.

Evidentiary findings are paramount to making a determination of whether an exception applies to the statute of limitations as to either Ventura or Santa Paula, and in conjunction with each of the multiple issues in Student's complaint, many of which do not specifically identify a time period. Many of the complaint's factual allegations involve both Ventura and Santa Paula. Bifurcation will likely result in duplication of evidence, difficulty rescheduling witnesses that need to be called more than once and over a longer period of time, and will cause a delay in the resolution of substantive issues.

Ventura's desire to avoid participating in the entire hearing is not a justification for ignoring the mandate of speedy resolution by bifurcating the hearing to determine whether exceptions apply to the statute of limitations as to Ventura. The parties may schedule witnesses to accommodate Ventura's concerns about attendance at hearing if they so choose. Ventura's motion for bifurcation is denied.

IT IS SO ORDERED.

DATE: July 28, 2017

DocuSigned by:
Adrienne L. Krikorian
3475616B5EDF4C6...

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings