BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SOUTHERN KERN UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018090934 ORDER REGARDING STATUTE OF LIMITATIONS

Student filed a Due Process Hearing Request on September 25, 2018, with the Office of Administrative Hearings, naming Southern Kern Unified School District and making claims based on conduct occurring since before September 2008. Administrative Law Judge Alexa J. Hohensee convened a prehearing conference on March 11, 2018, with Mother appearing on behalf of Student and attorney Darren J. Bogie appearing on behalf of Southern Kern.

The Order Following Prehearing Conference stated the hearing would commence on March 19, 2019, for the purposes of presenting evidence on whether any exception applied to the two-year statute of limitations in this matter. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) Further, after both parties have presented their evidence on this issue, the ALJ will take a break in the hearing and decide whether Student will be permitted to go forward on issues predating September 25, 2016, or whether those issues are barred by the statute of limitations.

Administrative Law Judge Clifford H. Woosley heard this matter in Rosamond, California, on March 19, 20 and 25, 2019, for purposes of taking evidence regarding the applicability of the two-year statute of limitations. ALJ Woosley now issues his determination regarding the applicability of the statute of limitations to Student's claims:[1]

1. Mother, on behalf of Student, retained counsel and filed a request for due process hearing naming Southern Kern, on July 14, 2014. At the time of the filing, Mother knew or had reason to know the facts upon which her legal claims are based in this case.

2. Student, by and through the holder or appointee of her educational rights, entered into an enforceable Settlement Agreement and Release in November 2014, which was approved by the Southern Kern school board on December 3, 2014. The

[1] The findings of fact, law, and legal analysis of ALJ Woosley's determination regarding the statute of limitations will be in the final decision in this matter.

agreement included Student's release and discharge of all educational claims, known and unknown, through and including the 2013-2014 school year and the 2014 extended school year. Therefore, pursuant to the agreement, Student is barred from asserting educational claims which occurred before the 2014 extended school year.

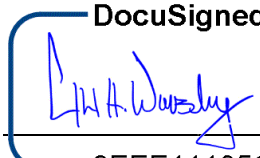
3. Neither exception to the two-year statute of limitations (20 U.S.C. § 1415(f)(3)(D)) applies from the December 2014 release of claims or from the time Mother knew, or had reason to know, the facts upon which her legal claims are based. Student did not prove that Southern Kern made a specific misrepresentation that it had resolved the problem forming the basis of Student's complaint nor that Southern Kern withheld information that was required to be provided to Parent. The two-year statute of limitations (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C)) applies to this due process matter.

4. Student is permitted to go forward on issues, as set forth in the Order following Prehearing Conference, which arose on or after September 25, 2016 (two years before the filing of Student's due process complaint).

IT IS SO ORDERED.

DATE: March 26, 2019

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings