BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MARYSVILLE JOINT UNION SCHOOL DISTRICT AND TWIN RIVERS UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013060425 ORDER DENYING MOTION TO DISMISS

On June 5, 2013, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint) naming Marysville Joint Union School District and Twin Rivers Unified School District (Twin Rivers). On June 13, 2013, Twin Rivers filed a Motion to Dismiss itself from the complaint alleging the events alleged in the complaint against Twin Rivers occurred over two years ago and the complaint did not allege an exception to the statute of limitations. Prior to ruling on this motion, Student filed a Motion to Amend the complaint in order to add specific allegations to address the issue of the statute of limitations. On June 20, 2012, Student's Motion to Amend was granted.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc…..), special education law does not provide for a summary judgment procedure. Here, upon the granting of the amended complaint, Twin Rivers' Motion is reduced to one of summary judgment on the statute of limitations issue, which requires a ruling on the merits. Accordingly, the motion is denied. All dates as set by the amended complaint in this matter are confirmed.

IT IS SO ORDERED.

Dated: June 19, 2013

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings