BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PANAMA-BUENA VISTA UNION SCHOOL DISTRICT.	OAH Case No. 2014100290 ORDER DENYING DISTRICT'S MOTION TO LIMIT ISSUES WITHOUT PREJUDICE

On December 23, 2014, Panama-Buena Vista Union School District filed a motion to limit the issues for hearing in the non-expedited portion of this matter. The motion was supported by a declaration under penalty of perjury from Panama's counsel, and a copy of an April 24, 2013 individualized education program from Bakersfield City Special Education Local Plan Area. Student did not file an opposition.

The statute of limitations for due process hearing requests in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) Title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required to be provided to the parent.

Student's first amended complaint, filed with the Office of Administrative Hearings on November 22, 2014, alleged violations of the Individuals with Disabilities Education Act against both Panama and Bakersfield City School District. The complaint consists of multiple issues. Issues 1 and 2 are directed at Panama, and are the subject of an expedited hearing scheduled for January 6, 2015. Issues 3 and 4, while entitled with the heading "BCSD," assert claims that "Respondents" denied Student a FAPE from November 21, 2012 through June 2014, which suggests that Panama may also be subject to those claims. Issues 4 and 5, entitled "Panama Buena Vista Union School District," are again asserted against "Respondents" and allege violations of the IDEA for the 2014-2015 school year. Student dismissed all claims against Bakersfield, only, on December 22, 2014.

Panama contends that Student first enrolled in its school district in August 2014 and therefore asserts that the issues for hearing should be limited to the time frame from the date

of enrollment to the date the first amended complaint was filed, November 22, 2014.[1] However, Panama provided no credible evidence establishing that Student was not enrolled at Panama at any time before the April 2013 IEP by Bakersfield City SELPA attached to the motion. Panama's counsel only declares that her "understanding" is that Student was not enrolled in Panama from October 1, 2012 through August 17, 2014, without providing any credible evidence to support her "understanding." On the other hand, the complaint makes allegations against Panama as one of the "Respondents" that go back two years.

Therefore, absent a stipulation between the parties limiting the dates at issue as to Panama, factual findings must be made by the hearing judge to determine the extent of Panama's liability during the applicable statutory period. In essence, by its motion, Panama is seeking summary adjudication in its favor of all issues prior to the date Student enrolled in Panama in August 2014. OAH does not grant summary judgment or summary adjudication.

Panama's motion to limit issues is denied without prejudice to its right to raise the scope of its liability as a defense at hearing if the parties do not enter into a stipulation prior to the start of hearing. All hearing dates in this matter are confirmed.

IT IS SO ORDERED.

DATE: December 29, 2014

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings

[1] The complaint was received by OAH after the close of business on November 21, 2014.