

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, IVY ACADEMIA
ENTREPRENEURIAL CHARTER
SCHOOL, AND OPTIONS FOR YOUTH -
NORTHRIDGE.

OAH CASE NO. 2015040942

ORDER DENYING LOS ANGELES
UNIFIED SCHOOL DISTRICT'S
MOTION TO DISMISS AND ITS
GRANTING MOTION TO BIFURCATE

On May 29, 2015, Los Angeles Unified School District filed with the Office of Administrative Hearings a Motion to Dismiss Student's claims that occurred before April 14, 2013, for being outside the two-year statute of limitations. In the alternative, Los Angeles requested that OAH bifurcate for hearing the issue regarding whether Student's claims that occurred before April 14, 2013, are barred by the two-year statute of limitations. OAH received no response to the Motion to Dismiss and/or Bifurcate from Student, Ivy Academia Entrepreneurial Charter School, or Options for Youth – Northridge.

APPLICABLE LAW

The statute of limitations for due process complaints in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, 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.

Although there is no special education law or regulation that addresses bifurcation of issues, OAH generally looks to civil cases and the California Administrative Procedure Act for guidance. Government Code section 11507.3 of the APA of states, in part:

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a

separate hearing of any issue, including an issue raised in the notice of defense, or of any number of issues.

Code of Civil Procedure section 598 contains a similar provision for civil trials:

The court may, when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby, on motion of a party, after notice and hearing, make an order, no later than the close of pretrial conference in cases in which such pretrial conference is to be held, or, in other cases, no later than 30 days before the trial date, that the trial of any issue or any part thereof shall precede the trial of any other issue....

DISCUSSION

Student alleges in her complaint that although Los Angeles assessed Student in 2010 for special education eligibility, which found her not eligible for special education and related services, that the two-years statute of limitations should be tolled because Los Angeles did not inform Mother of her procedural rights. Los Angeles' motion to dismiss contains evidence that Los Angeles did inform Mother of her procedural rights during the 2010 assessment process and subsequent individualized educational program meeting. Due to the dispute whether Mother received the required procedural rights, a triable issue for hearing exists. Therefore, Los Angeles' motion to dismiss is denied.

In the alternative, Los Angeles requested that OAH bifurcate the issue of statute of limitations from the other issues for hearing in the June 1, 2015 Prehearing Conference Order. Generally, OAH will bifurcate a hearing where the resolution of a threshold question will determine whether the remainder of a hearing will be necessary. For example, OAH has bifurcated specific legal issues such as the statute of limitations because a determination of that issue may reduce or eliminate issues and determine whether the remainder of the hearing will be necessary. Bifurcation limiting parties or issues may further judicial economy.

As to Los Angeles' motion to bifurcate the issue regarding the statute of limitations, Los Angeles demonstrated that a determination of the issue regarding the two-years of statute of limitations should be bifurcated as bifurcation will further judicial economy. If Los Angeles prevails, four out of the six years at issue in Student's complaint would no longer be at issue, greatly reducing the evidence and witnesses at hearing. Therefore, Los Angeles established that the issue whether the two-year statute of limitations is tolled should be bifurcated and heard before the other issues in Student's complaint.

ORDER

1. Los Angeles' motion to dismiss is denied.

2. Los Angeles' motion to bifurcate is granted.

3. The hearing regarding whether Student's claims that occurred on or before April 13, 2013, should be dismissed for being outside the two-year statute of limitations shall take place on June 8 and 9, 2015, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 5:00 p.m., with the exception of June 8, 2015, on which day the hearing shall begin at 1:30 p.m. and end at 5:00 p.m. The hearing shall take place at the Office of Administrative Hearings, 15350 Sherman Way, Suite 300, Van Nuys, CA 91406.

4. The hearing regarding all other issues for hearing identified in the June 1, 2015 Prehearing Conference Order shall take place on August 18, 19, and 20, 2015, and continuing day to day, Monday through Thursday as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 5:00 p.m., with the exception of August 18, 2015, on which day the hearing shall begin at 9:30 p.m. and end at 5:00 p.m. The hearing shall take place at the Office of Administrative Hearings, 15350 Sherman Way, Suite 300, Van Nuys, CA 91406.

DATE: June 4, 2015

/s/

PETER PAUL CASTILLO

Presiding Administrative Law Judge
Office of Administrative Hearings