BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TWIN RIVERS UNIFIED SCHOOL DISTRICT AND MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013060425 ORDER GRANTING JOINT MOTION FOR BIFURCATION OF ISSUES

On June 5, 2013, Student filed a due process hearing request (complaint) naming Twin Rivers Unified School District (Twin Rivers) and Marysville Joint Unified School District (Marysville) . On June 19, 2013, the Office of Administrative Hearings (OAH) granted leave to file, and deemed filed on that date, Student's amended complaint against Twin Rivers and Marysville.

On July 8 , 2013, Twin Rivers and Maryville filed a joint motion to bifurcate, to hear whether the two year statute of limitations will bar Student's claims prior to June 5, 2011, or prior to June 19, 2011 if the relation-back doctrine does not apply to the claims added by Student's amended complaint. On July 9, 2013, Student filed non-opposition to the districts' motion.

APPLICABLE LAW

Federal and state laws pertaining to special education due process administrative proceedings do not contain a specific reference to the procedure for bifurcating issues at trial. Such authority resides in the discretion of the administrative law judge, provided the separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

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 will 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 if the district was appropriately named as a party. OAH has also 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 furthers judicial economy by dismissing a named respondent from a complaint, or by finding that no

complaint exists against a respondent due to the student's lack of residency, or that the issue is barred by the statute of limitations.

The statute of limitations for IDEA due process complaints in California is two years prior to the date of filing the request for due process. (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, including where (i) the parent or student 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 (ii) the local educational agency's withheld information from the parent or student that was required to be provided to the parent or student. These two narrow exceptions to the statute of limitations require factual determinations that can only be made after giving the parties an opportunity to develop the record.

DISCUSSION

Student's original complaint alleged that while she was a minor without parents, and later an adult with diminished capacity, (1) Twin Rivers denied Student a free appropriate public education (FAPE) for the 2007-2008 and 2008-2009 school years and extended school years (ESY's), and (2) Maryville denied Student a FAPE for the 2009-2010, 2010-2011, 2011-2012 and 2012-2013 school years and ESY's. Student's amended complaint added additional allegations of conduct by Twin Rivers in violation of the IDEA, including appointment of an educational surrogate with a conflict of interest. Twin Rivers and Maryville contend that claims arising prior to June 5, 2011 are beyond the two-year statute of limitations applicable to Student's complaint filed June 5, 2013. Twin Rivers also contends that claims added to the amended complaint arising before June 19, 2011 are barred by the statute of limitations, arguing that the new allegations are not part of the same general facts sufficient to relate back to the date of filing of the original complaint.

A factual inquiry at the beginning of the hearing in this matter into Student's allegations that Twin Rivers appointed an educational surrogate with a conflict of interest, and that Maryville failed to appoint any surrogate at all, will be essential to determining whether an exception to the statute of limitations applies, and whether some or all of the claims against Twin Rivers or Maryville are barred. If Student cannot prove that she was prevented from filing a request for due process due to specific misrepresentations by one or both of the school districts that they had resolved the problem forming the basis of the complaint, or that they had withheld information from Student that was required to be provided to her, the statute of limitations will bar Student's claims arising during the 2007-2008, 2008-2009 and 2009-2010 school years and ESY's, and claims arising during the 2010-2011 school year prior to June 5 or June 19, 2011. Student's non-opposition to this motion indicates that all parties wish to avoid an investment in time and resources to prepare and present three to four years of documentary evidence and witness testimony if Student's claims for those years are barred. Therefore, a separate hearing to determine whether an

exception to the statute of limitations exists would promote judicial economy and the efficient use of judicial resources, as a decision on the statute of limitations may significantly limit the issues, witnesses and evidence for hearing.

Accordingly, the school districts' motion to bifurcate the hearing on Student's complaint, with the issue of whether an exception to the statute of limitations exists to be heard first, is granted. The logistics of scheduling the bifurcated hearing and presentation of witnesses, the determination of the bifurcated issue, and the hearing of the remaining issues will be scheduled by the administrative law judge at the prehearing conference.

IT IS SO ORDERED.

Dated: July 11, 2013

/s/
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings