BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEMECULA VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016060613 ORDER DENYING WITHOUT PREJUDICE MOTION TO BIFURCATE

On June 6, 2016, Parent on behalf of Student filed a request for due process with the Office of Administrative Hearings, naming Temecula Valley Unified School District. On July 14, 2016, Student amended his request. Each of Student's allegations predate the applicable two years statute of limitations. On August 25, 2016, District filed a request to bifurcate the issue of whether an exception to the two year statute of limitation exists for this matter.

APPLICABLE LAW

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

While District raises a compelling argument why OAH should grant the bifurcation motion, the request is premature. The appropriate time to raise the request is at the prehearing conference. At that time, the Administrative Law Judge can consider the request and, if the request to bifurcate is granted, discuss with the parties any scheduling issues. Accordingly, District's bifurcation request is denied without prejudice, to permit the parties to discuss the bifurcation request with the Administrative Law Judge during the prehearing conference.

ORDER

District's motion to bifurcate is denied without prejudice.

DATE: August 26, 2016

DocuSigned by:
Paul H. Kamoroff
743826F41397447...

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings