BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. WHITTIER CITY SCHOOL DISTRICT.	OAH Case No. 2015010046 ORDER DENYING STUDENT'S REQUEST TO AMEND ISSUE ONE AS DEFINED IN PREHEARING CONFERENCE ORDER.

On April 13, 2015, a telephonic prehearing conference was held with Administrative Law Judge Judith L. Pasewark. Pursuant to the discussions during the PHC, Student's Issue One was defined as "whether an exception to the two year statute of limitation applies to Student's Child Find claim for the period of December 2011 through December 19, 2012." The Order Following Prehearing Conference was issued that same day.

On April 14, 2015, Student filed a request to amend Issue One as stated in the Order Following Prehearing Conference. On April 17, 2015, District filed an opposition to Student's request to amend.

APPLICABLE LAW AND DISCUSSION

An ALJhas the authority to redefine a party's issues, so long as no substantive changes are made. (*J.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 442-443.)

Student contends that while Issue One is accurate as to one of Student's claims, it does not capture the factual allegations raised in Student's complaint, specifically, that "parents did not know about any due process issue at this time because District did not inform parents of their suspicions or emails regarding placing Student in a more [sic] setting for emotionally disturbed kids."

A request for due process hearing shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. This time period does not apply to a parent if the parent was prevented from requesting the due process hearing due to either of the following: (1) specific misrepresentation by the District that it had solved the problems forming the basis of the due process hearing request; or (2) the withholding of information by the District from the parent that was required to be provided to the parent. (Ed. Code, § 56505, subd. (l)(1)(2).)

Student's request amendment is an unnecessary restatement of the statute of limitations exceptions, and is subject to factual determination at hearing. Issue One, as stated in the Order Following Prehearing Conference, makes no substantive change in Student's issue or burden of proof.[1]

ORDER

1. Student's request to amend Issue One of the Order Following Prehearing Conference is denied.

DATE: April 24, 2015

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings

[1] See, *Student v. Marysville Joint Unified School District* (January 17, 2014) OAH Case No. 2013060425.