BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TURLOCK UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019081052

ORDER DENYING MODESTO CITY SCHOOLS' MOTION TO BIFURCATE ISSUES WITHOUT PREJUDICE

On August 27, 2019, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Turlock Unified School District and Modesto City Schools.

On September 16, 2019, Student filed an Amended complaint. On September 27, 2019, Modesto City Schools filed a Motion to Dismiss, alleging that portions of the Amended complaint are time-barred. On October 7, 2019, OAH issued an order denying Modesto City Schools' Motion to Dismiss on the basis special education law does not provide for a summary judgment procedure.

On December 2, 2019, Modesto City Schools filed a Motion to Bifurcate the Issue of Statute of Limitations. On December 3, 2019, Student filed a Statement of Non-

Opposition to Modesto City Schools' Motion to Bifurcate. On December 3, 2019, Modest City Schools filed a Reply to Student's Statement of Non-Opposition.

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. The Administrative Law Judge has the discretion to bifurcate an issue raised in the pleadings, and hear it in a separate hearing, if doing so would be convenient, would result in judicial economy or would avoid prejudice to a party. (Gov. Code, §11507.3, subd. (b).) Generally, OAH will bifurcate a hearing where the resolution of the issue to be determined in the first hearing will determine whether the remainder of a hearing will be necessary. For example, OAH may initially hear evidence on the issue of 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.

The statute of limitations 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.

DISCUSSION

Student's Amended complaint contains numerous factual allegations, commencing in the 2014-2015 school year which are subject to a factual determination

of whether they represent an exception to the two-year statute of limitations. OAH denied Modesto City Schools' Motion to Dismiss on October 7, 2019 on the basis OAH cannot entertain motions for summary judgment. Modesto City Schools' Motion to Dismiss was not limited to matters that are facially outside of OAH jurisdiction, but instead sought a ruling on the merits. Accordingly, Modesto City Schools' Motion to Dismiss was denied.

Modesto City Schools' Motion to Bifurcate seeks to bifurcate the issue of whether some or all of Student's claims are barred by the statute of limitations in a separate hearing, and by implication, seeks a continuance of the current hearing dates pending OAH's ruling on whether some or all of Student's claims are barred by the statute of limitations.

The determination of whether bifurcation of the hearing for purposes of a threshold finding of whether the statute of limitations bars any claims alleged by Student would be conducive to judicial economy and make an expeditious use of judicial resources. However, this issue is a procedural matter best determined at the prehearing conference. Accordingly, Modesto City Schools' request for bifurcation is denied without prejudice, and may be as part of Modesto City Schools' Prehearing Conference Statement.

ORDER

Modesto City School's Motion to Bifurcate is denied without prejudice to being raised at the Pre-Hearing Conference. The matter shall proceed as scheduled. All dates are confirmed.

IT IS SO ORDERED.

DATED: December 03, 2019

DocuSigned by:
Jennifer Kelly
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Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings