

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTHERN TRINITY JOINT UNIFIED
SCHOOL DISTRICT AND TRINITY
COUNTY OFFICE OF EDUCATION.

OAH Case No. 2016030984

ORDER DENYING MOTION TO
DISMISS; DENYING REQUEST TO
BIFURCATE WITHOUT PREJUDICE

On March 18, 2016, Student filed a Request for Due Process Hearing complaint with the Office of Administrative Hearings, naming Southern Trinity Joint Unified School District and Trinity County Office of Education.

On April 12, 2016, District and County filed a motion to dismiss that portion of Student's complaint alleging denials of a free appropriate public education which occurred prior to March 18, 2014, in violation of the two-year statute of limitations. In the alternative, District and County requested that, if dismissal was denied, Student's complaint be bifurcated to factually determine whether Student met his burden of proof to establish an exception to the statute of limitations.

On April 13, 2016, Student filed an opposition to dismissal and bifurcation.

APPLICABLE LAW AND DISCUSSION

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (1); 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 (1), 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.

Student's complaint alleges denials of a free appropriate public education commencing in the 2004-2005 school year. Student also alleges during the relevant time periods District and County misrepresented and/or omitted facts regarding Student's eligibility for special education and related services. District and County contend Student

complaint does not factually establish misrepresentations or omissions to support an exception to the two year statute of limitation.

Student is not required to prove his case in the contents of his complaint. Student's complaint alleges District and County made misrepresentations commencing in the 2004-2005 school year which resulted in a denial of a free appropriate public education. Special education law does not provide for a summary judgment procedure. Whether or not Student's contentions constitute misrepresentations sufficient to establish an exception to the two year statute of limitations is a ruling on the merits based upon factual determinations to be made at hearing. District and County's motion to dismiss is denied.

In the alternative, District and County request that Student's complaint be bifurcated and the issue of exception to the two year statute of limitations be heard first, as a matter of judicial economy. Discussion of District and County's request is better served at the prehearing conference. At that time, after review of proposed witness and exhibit lists, the hearing Administrative Law Judge will discuss the procedural issues of the hearing with the parties, and may make an appropriate ruling regarding bifurcation. The issue of bifurcation is dismissed without prejudice at this time, and may be revisited for determination at the prehearing conference.

ORDER

1. District and County's motion to dismiss Student's allegations of denial of a free appropriate public education occurring prior to March 18, 2014 is denied.
2. District and County's request for bifurcation is denied without prejudice.
3. The matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: April 13, 2016

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings