

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015030765

v.

CASTRO VALLEY UNIFIED SCHOOL
DISTRICT,

CASTRO VALLEY UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015020718

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On February 13, 2015, Castro Valley Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2015020718 (First Case), naming Student. On March 4, 2015, pursuant to an Order granting leave to amend, Castro Valley filed an amended complaint in the First Case. This matter is currently pending hearing on April 2, 2015, with a prehearing conference on March 23, 2015.

On March 17, 2015, Parent on behalf of Student filed a Request for Due Process Hearing in OAH Case Number 2015030765 (Second Case), naming Castro Valley.¹

On March 18, 2015, Student filed a Motion to Consolidate the First Case with the Second Case.

On March 18, 2015, Castro Valley filed a non-opposition to Student's motion to consolidate the two cases.

¹ Student's complaint was received after business hours on March 16, 2015, and is therefore deemed filed as of the next business day. (1 Cal. Code Regs. § 1006, subd. (h).)

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Here, the First Case and Second Case involve common questions of law and fact. Castro Valley's issue for hearing whether its December 2014 individualized education program offer of a nonpublic school placement offers Student a free appropriate public education. Castro Valley contends that this IEP offers Student a FAPE. Student also identifies the appropriateness of the December 2014 IEP as an issue for hearing and contends this IEP does not offer him FAPE in the least restrictive environment. Student alleges additional FAPE violations during the 2013-2014 school year including Castro Valley's failure to provide appropriate goals, services and placement. Finally Student alleges a denial of FAPE during the 2014-2015 school year when Castro Valley failed to provide an adequate transition to Redwood High School, failed to implement his IEP, and failed to afford Parent meaningful participation in the decision-making process.

These cases present overlapping issues regarding the appropriateness of Castro Valley's December 2014 IEP offer and Student's educational placement and service needs during the 2013-2014 and 2014-2015 school years. Consolidation, therefore, is warranted and will prevent the risk of inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties, and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve the introduction of the same or similar documents including relevant IEP's. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the Second Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015020718, the First Case, are vacated.
3. The consolidated cases shall now be heard on the dates set for the Second Case, OAH Case Number 2015030765. Specifically, mediation will be on April 21, 2015, at 9:30 a.m. with a prehearing conference on May 4, 2015, at 3:00 p.m. and the hearing will begin on May 12, 2015, at 9:30 a.m.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in the Second Case, OAH Case Number 2015030765.

DATE: March 19, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings