

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GREENFIELD UNION SCHOOL
DISTRICT AND SOUTH MONTEREY
COUNTY JOINT UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015120609

ORDER DENYING MOTION TO
BIFURCATE

On December 11, 2015, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing, naming Greenfield Union School District and South Monterey County Joint Union High School District. This matter is set for hearing beginning April 19, 2016.

On March 25, 2016, South Monterey filed a motion to bifurcate.¹ On March 30, 2016, Student filed an opposition. Greenfield did not file a response.

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.

The Code of Civil Procedure section 598 contains a similar provision for civil trials. The court may order that the trial of any issue may precede the trial of any other issue, "when

¹ On March 25, 2016, South Monterey also filed a Motion to Consolidate its request for due process hearing, OAH Case No. 2016031339, naming Student with the Student-filed case. This motion is addressed in a separate Order.

the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby.” (Code Civ. Proc., § 598.)

OAH also has the obligation to move cases to hearing expeditiously. A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless there is a 30-day statutory resolution period or an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f).)

DISCUSSION

Student’s due process hearing request alleges that Greenfield denied him a free appropriate public education during the 2013-2014 and 2014-2015 school years, including extended school years, by committing numerous substantive and procedural violations including failing to appropriately assess Student. Student also alleges that South Monterey denied him a FAPE during the 2015-2016 school year, including extended school year, by committing numerous substantive and procedural violations.

South Monterey contends that there are no common issues of law or fact as to Student’s claims against each of the two districts which served Student during separate school years. South Monterey opines that the witnesses and documentary evidence are likely to be distinct for each of the two districts, and that bifurcation will promote judicial economy, serve the interests of justice and be conducive to expediency. South Monterey also contends that bifurcation is necessary for a clear determination of the prevailing party.

Student contends there are overlapping issues and overlapping responsibility of both Greenfield and South Monterey for providing Student with a FAPE. For instance, Student contends that Greenfield’s May 13, 2015 individualized education program for Student was adopted by South Monterey, and that the April 2015 transition IEP was developed by both districts, both of which attended the April 23, 2015 IEP team meeting. Student maintains that bifurcation will not serve judicial economy as Student would be calling many of the same witnesses to testify at each hearing and introducing many of the same exhibits.

The authority to bifurcate issues raised in a due process complaint resides in the sound discretion of the administrative law judge, provided the separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources.

Generally, OAH will bifurcate a hearing where the resolution of a threshold question will determine whether the remainder of a hearing will be necessary. For example, OAH will bifurcate the issue of whether a student is or was a resident of a school district named as a respondent in a complaint to determine if the district was appropriately named as a party. OAH has also bifurcated specific legal issues such as 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. Bifurcation limiting parties or issues furthers judicial economy by dismissing a named respondent from a complaint, or by finding that no complaint exists against a respondent due to the student's lack of residency, or that the issue is barred by the statute of limitations.

In this case, South Monterey has not established that it would be conducive to judicial economy and a wise use of judicial resources to hold two separate hearings in this matter. There are overlapping issues between the two districts, many of the same witnesses will be called to testify, and some of the same documentary evidence will be introduced regarding the issues raised against each district. Evidence from the 2013-2014 and 2014-2015 school years may well be relevant to the current school year wherein South Monterey is responsible for providing Student with a FAPE. OAH will certainly be able to determine prevailing party status as to the respective parties following the hearing. Further, this matter has been pending since December 2015, and bifurcation will result in an undue delay in a final adjudication of Student's issues. Accordingly, South Monterey's motion is denied.

ORDER

South Monterey' motion to bifurcate is denied.

DATE: April 1, 2016

DocuSigned by:

Theresa Ravandi

180B9BDB98E5424...

THERESA RAVANDI

Administrative Law Judge

Office of Administrative Hearings