

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. BERKELEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016041173
BERKELEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016040718 ORDER GRANTING MOTION TO CONSOLIDATE

On April 14, 2016, Berkeley Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016040718 (District’s Case), naming Student.

On April 28, 2016, Student filed a Request for Due Process Hearing in OAH case number 2016041173 (Student’s Case), naming Berkeley.

On April 28, 2016, Student filed a Motion to Consolidate Student’s Case with District’s Case. Berkeley did not file a response to the motion.

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, Berkeley seeks an order that Student is no longer eligible for special education and related services as a student with a specific learning disability based upon its May 2015 triennial psychoeducational assessment and speech and language assessment. Student identifies as issues for hearing, her continued eligibility for special education and the appropriateness of Berkeley's assessments. Student's additional issues include substantive and procedural allegations that Berkeley denied her a free appropriate public education from April 2014 through the 2013-2014, 2014- 2015, and 2015-2016 school years by: failing to offer an appropriate individualized education program; failing to offer appropriate goals in all areas of need; failing to implement her IEP; failing to develop a clear written offer of FAPE; failing to document her IEP; failing to ensure the attendance of all necessary IEP team members; failing to timely provide Parents copies of all educational records; and failing to timely ensure that Student's educational needs were met. Student seeks an order that she was denied a FAPE and that Berkeley failed to conduct an appropriate psychoeducational assessment; reimbursement for an independent evaluation; compensatory academic instruction; continued eligibility under the category of specific learning disability; and the development of a new IEP with Berkeley to fund the attendance of Student's private assessor. District's Case and Student's Case involve common question of law and fact. Therefore, consolidation 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 Berkeley's psychoeducational and speech and language assessments and Student's private assessment. 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 Student's Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2016040718 (District's Case) are vacated.
3. The consolidated cases shall now be heard on the dates set for Student's Case, OAH case number 2016041173. Specifically, mediation is calendared for June 2, 2016 at 9:30 a.m., with a prehearing conference on June 13, 2016, at 3:00 p.m., and the hearing shall begin on June 22, 2016, 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 Student's Case, OAH case number 2016041173.

IT IS SO ORDERED.

DATE: May 5, 2016

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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings