

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LAFAYETTE SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2008120161

ORDER DENYING MOTION TO
BIFURCATE

On December 3, 2008, Lafayette School District (District) filed a Request for Due Process Hearing (Complaint), naming Parents, on behalf of Student, as respondents (Student). The Complaint seeks a determination that District's 2007 assessment is appropriate, that District is entitled to reassess Student using its own personnel, and that Parents' request for an Independent Educational Evaluation (IEE) is not appropriate.

On March 11, 2009, Student filed a Motion to bifurcate its defenses that the due process complaint is time barred because it was not undertaken "without unnecessary delay", whether the request for an IEE was untimely, and whether the proposed assessment plan dated September 24, 2008 was sufficient notice to Student of the assessment.

On March 17, 2009, District filed its opposition to Student's motion to bifurcate. District argued that it would not be conducive to judicial economy or efficiency and would require several more days of hearing than currently scheduled if the issues were bifurcated as requested. District also asserts that the issues Student seeks to bifurcate are interrelated to those District seeks to prove at hearing and will result in duplication of testimony, evidence and inconvenience to witnesses.

DISCUSSION

While no statute or regulation specifically provides a standard to be applied in deciding a motion to bifurcate special education cases, California law offers, by analogy, a standard appropriate to special education cases. Government Code section 11507.3, subdivision (b), provides that an administrative law judge "may" order separate hearings when to do so would be "in the furtherance of convenience or to avoid prejudice: or when separate hearings will be conducive to expedience and economy..." All issues in this case involve common questions of law and/or fact and involve the same parties. To conduct a separate or bifurcated hearing on the issues as requested by Student would unnecessarily prolong the hearing and delay the case, without benefit to the parties. To do so, would not be in the interests of expediency or judicial economy.

ORDER

The Motion to bifurcate is denied.

Dated: March 24, 2009

/s/

GLYNDA GOMEZ
Administrative Law Judge
Office of Administrative Hearings