

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

LONG BEACH UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2010071082

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010060817

ORDER GRANTING MOTION TO
CONSOLIDATE

On June 18, 2010, Michelle Ortega, attorney for Student, filed a Request for Due Process Hearing (complaint) against the Long Beach Unified School District (District). This matter was designated as Office of Administrative Hearings (OAH) Case No. 2010060817 (Student's Case). On July 22, 2010, Hans A. Gillinger, attorney for District, filed a complaint against Student. This matter was designated as OAH Case No. 2010071082 (District's Case).

On July 29, 2010, District filed a Motion to Consolidate Student's Case with District's Case. Student 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 or fact and 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

Student's Case raises the issue of whether Student was denied a free appropriate public education during the 2008-2009 and 2009-2010 school years (SYs). Specifically, Student challenges District's speech and language and psycho-educational assessments conducted during the 2008-2009 and 2009-2010 SYs and the failure to offer appropriate speech and language therapy services during those years due to the inappropriate assessments. Student seeks reimbursement for privately procured speech and language therapy in summer of 2008 and a privately procured psycho-educational IEE in April 2009, and compensatory education. District's Case raises the issue of whether Student is entitled to an IEE in the areas of speech and language therapy and occupational therapy. District seeks a finding that Student is not entitled to an IEE in these two areas.

Student's Case does not raise an issue as to occupational therapy. District's Case does not raise an issue as to a psycho-educational assessment. However, Student challenges District's speech and language assessment done prior to a private assessment she obtained in May 2008, which was the basis for her privately obtained speech and language therapy in the summer of 2008. Furthermore, Student has challenged District speech and language therapy assessments during the 2008-2009 and 2009-2010 SYs, which includes the March 2009 speech and language therapy assessment addressed by District's Case. Therefore, the two cases raise common questions of law and fact and judicial economy would be served in consolidating the matters.

District asserts that Parents are divorced and each holds Student's educational rights through joint legal custody. District further states that Father is not a party to Student's Case. In its motion, District states it could seek to join Father, however, District has not yet sought that joinder. While Father is not a party to Student's Case, this does not prevent consolidation of the two cases and consolidation is warranted because the issues and potential witnesses and evidence overlap. Therefore, District's Motion to Consolidate is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. 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 OAH Case No. 2010071082 (District's Case).
3. The prehearing conference in the consolidated cases shall be held on August 11, 2010, at 1:30 p.m.
4. The due process hearing in the consolidated cases shall be held on August 16, 2010. The need for additional days may be discussed at the prehearing conference.

Dated: August 5, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings