

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL
DISTRICT AND OCEANSIDE UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011060941

ORDER DENYING MOTION TO
BIFURCATE

On June 20, 2011, Student filed a request for a due process hearing (complaint) against Oceanside Unified School District (OUSD) and Grossmont Union High School District (GUHSD). The complaint alleged matters regarding discipline as against OUSD only. The complaint also alleged, as against OUSD, substantive denials of a free appropriate public education (FAPE) in OUSD's January 2011, individualized educational program (IEP). As against both OUSD and GUHSD, the complaint further alleged that Student moved from OUSD to GUHSD on May 15, 2011; that OUSD denied Student a FAPE by failing to provide Student's records in a timely manner to GUHSD; that GUHSD failed to obtain such records in a timely manner; and that GUHSD failed to hold a timely interim IEP.

Since the complaint alleged expedited matters regarding discipline, as well as non-expedited issues pertaining to alleged denials of FAPE, it was set for dual hearing dates for the expedited and non-expedited portions.

On June 29, 2011, GUHSD and Student made a joint motion to bifurcate the issues pertaining to GUHSD from the issues pertaining to OUSD, stating that to do so would serve the interests of judicial economy. OAH received no opposition from OUSD.

By motion practice, stipulation, and OAH order dated July 1, 2011, the expedited matters regarding discipline were rendered moot and the expedited hearing dates taken off calendar.

DISCUSSION

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to bifurcate special education cases, OAH has consolidated 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].) Similar reasoning applies to this motion to bifurcate, and dictates against bifurcation. Therefore the motion is denied.

The allegations against OUSD and GUHSD that remain, after the expedited issues alleged solely against OUSD were rendered moot, are as follows: OUSD denied Student a FAPE in OUSD's January 2011, IEP; in or around May 15, 2011, OUSD denied Student a FAPE by failing to provide Student's records in a timely manner to GUHSD; GUHSD failed to obtain such records in a timely manner; and GUHSD failed to hold a timely interim IEP. The matters involve common questions of law and fact and overlapping parties. The parties fail to demonstrate how they would be denied due process without bifurcation. Finally, contrary to the parties' argument, bifurcation does not further the interests of judicial economy. Instead, bifurcation will only result in additional hearing days to hear evidence applicable to both respondent districts that could have been presented in a joint proceeding.

ORDER

The motion to bifurcate is denied.

Dated: July 15, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings