

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAJON VALLEY UNION SCHOOL
DISTRICT.

OAH CASE NO. 2013110099

ORDER DENYING MOTION TO
BIFURCATE HEARING

On September October 28, 2013, Student filed a due process hearing request (complaint) naming Cajon Valley Union School District (Cajon Valley).

On January 30, 2014, Student filed a motion to bifurcate the issue of notice of intent to unilaterally place Student in a non-public school and reimbursement for that placement. Cajon Valley filed an opposition to Student's motion asserting that the issue of notice and reimbursement are not threshold issues. Cajon Valley also asserts that bifurcation would not further judicial economy because the issue of whether or not Student was offered and provided a free appropriate public education (FAPE) would still need to be addressed. On February 4, 2014, Student submitted a reply to Cajon Valley's opposition.

APPLICABLE LAW

Federal and state laws pertaining to special education due process administrative proceedings do not contain a specific reference to the procedure for bifurcating issues at trial. Such authority resides in the discretion of the administrative law judge, provided that separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

Generally, the Office of Administrative Hearings (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 has 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.

DISCUSSION

Student asserts that the issue of reimbursement should be addressed first because a partial or full denial of reimbursement will either put the entire dispute to rest or give the parties an opportunity to reconsider their position. That does not render it a threshold issue.

The issue raised by Student in the complaint is whether or not Cajon Valley denied Student a FAPE entitling parents to reimbursement for a private school placement and related transportation costs from the 2012-2013 extended school year through September of the 2013-2014 school year. The issue of reimbursement is subordinate to a determination of whether or not Cajon Valley denied Student a FAPE. If it is found that Cajon Valley offered Student a FAPE, a determination regarding notice of the private school placement and reimbursement would not be reached. Therefore, it is not a threshold issue.

Additionally, even if the issue of reimbursement were determined first, before any such order could be made, the FAPE issue would still need to be litigated. Accordingly, absent a settlement by the parties, the need for a second hearing could not be avoided by adjudicating the issue of reimbursement first. Therefore, bifurcation would not further judicial economy or the expeditious use of judicial resources.

In light of the forgoing, Student's motion to bifurcate is denied.

ORDER

Student's motion to bifurcate is denied.

Dated: February 5, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings