

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SOLANA BEACH SCHOOL DISTRICT.

OAH CASE NO. 2013110844

ORDER DENYING STUDENT'S
MOTION TO BIFURCATE

On November 22, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) naming the Solana Beach School District (District) as respondent. The complaint contains nine issues involving school years 2011-2012, 2012-2013, and 2013-2014.

On December 13, 2013, Student filed with OAH a motion to bifurcate seeking to have OAH conduct a hearing on issue number seven prior to conducting a hearing on the remaining eight issues. In issue seven, Student contends that the District denied Student a free appropriate public education (FAPE) pursuant to Education Code section 56346 by failing to file a due process complaint with OAH within a reasonable time after Student's parents refused to consent to the March 26, 2013 Individualized Education Program (IEP).

On December 19, 2013, the District filed an opposition to Student's motion.

APPLICABLE LAW AND DISCUSSION

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 the separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

Generally, 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. Bifurcation limiting parties or issues furthers judicial economy.

Student, in his motion, contends that issue seven amounts to a threshold procedural issue because it impacts the burden of proof. Student contends that "the parties will have clear instruction as to the burden of proof in the administrative hearing." (Student's Motion

to Bifurcate, p.4.) Student contends that bifurcation is necessary for efficiency. Student also notes that the issue is primarily a matter of law and not a question of fact, which can be resolved by a motion or one day hearing.

The District contends that bifurcation is not necessary as issue seven is not a threshold issue which may eliminate the need for further hearing and does not “promote the interests of expediency or judicial economy.” (District’s Opposition, p. 1.)

Issue seven is not a threshold issue in that resolution of the issue will not determine whether the remainder of the hearing will be necessary. Bifurcation of issue seven increases rather than decreases potential hearing time. Student’s issue seven is merely one allegation of nine. Should bifurcation occur, witnesses would be required to testify at both hearings, and judicial economy would not be served.

Additionally, Student correctly notes that the burden of proof is a legal issue. Student may bring a motion to clarify the burden of proof in this case. Thus, there is no need to separately hear this issue.

Student’s motion to bifurcate issue seven is DENIED.

IT IS SO ORDERED.

Dated: December 20, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings