

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT,	OAH Case No. 2014120052 (Primary Case)
PARENTS ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2014100989 (Secondary Case) ORDER GRANTING DISTRICT'S MOTION TO CONSOLIDATE

On October 22, 2014, Student filed a Request for Due Process Hearing in Office of Administrative Hearings Case Number 2014100989 (Student's Case), naming the Capistrano Unified School District.

On November 26, 2014, District filed a Request for Due Process Hearing in OAH Case Number 2014120052 (District's Case), naming Student. District simultaneously filed a motion to consolidate its case with that of Student. On December 1, 2014, Student filed a notice of non-opposition to District's motion.

APPLICABLE LAW AND DISCUSSION

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 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].)

Student raises two issues in his complaint. In the first issue, Student contends that District has denied him a free appropriate public education for school years 2010-2011, 2011-2012, and 2012-2013. In the second issue, Student contends that the two-year statute of limitations does not apply because District made specific misrepresentations that it had resolved the problems. In an Order issued November 14, 2014, OAH granted District's motion to bifurcate the second issue in Student's complaint, and how the bifurcated hearing would proceed was to be discussed at the Prehearing Conference.

District's complaint contains one issue. District contends that its March 2013 triennial assessment of Student is appropriate such that District should not be required to fund the independent educational evaluations requested by Student.

District contends that its issue and Student's first issue should be consolidated because they involve similar issues of fact and law, and will involve many of the same witnesses and evidence.

The legal issues involving the validity of a school district's assessments for purposes of determining a district's obligation to fund independent educational evaluations do not involve much overlap with whether a district's individualized educational programs offered a student a FAPE. The reasonableness of recommendations made by District assessors based on assessment results will not be at issue in determining whether the assessments are valid. However, District's position that the two cases will involve many of the same witnesses and evidence, is well-taken. District's assessors were part of Student's IEP team, and most likely made the placement and services recommendations that Student contends failed to provide him with a FAPE. Therefore, consolidating the two matters will further the interests of judicial economy by not requiring the same people to testify in two cases. Additionally, Student does not oppose consolidating the cases.

Accordingly, District's motion to consolidate is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014100 0989 [Student's Case] are vacated.

3. 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 Number 2014120052 [District's Case].
4. The Order dated November 14, 2014, remains effective and how the bifurcated hearing will proceed shall be discussed at the Prehearing Conference scheduled for OAH Case Number 2014120052 [District's Case].

DATE: December 4, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings