

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015090569
(PRIMARY CASE)

BERKELEY UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015070259
(SECONDARY CASE)

ORDER GRANTING STUDENT'S
MOTION TO CONSOLIDATE

BACKGROUND INFORMATION

On July 2, 2015, the Berkeley Unified School District filed a Request for Due Process Hearing (complaint) in OAH case number 2015070259 (District's Case), naming Student. The sole issue raised in District's complaint is whether its September 12, 2014 speech and language assessment of Student is valid such that it is not required to fund the independent educational evaluation requested by Student's parents in the area of speech and language.

On September 10, 2015, Student filed a complaint in OAH case number 2015090569 (Student's Case). Student raises three primary contentions in her complaint: a) that District failed in its child find obligation to her; b) that District failed to adequately assess her in all areas of suspected disability; and, c) that District failed to provide her with a free appropriate public education at all times at issue in the complaint.

Along with her due process complaint, Student filed a motion to consolidate her case with District's case. District filed a notice of non-opposition to Student's motion to consolidate on September 10, 2015.

CONSOLIDATION

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].)

Here, Student's case and District's case both raise the issue as to whether District's September 12, 2014, speech and language assessment was appropriate. While Student raises other issues in her complaint, the core issues in both cases concern whether the speech and language assessment was adequate, and whether the speech and language services offered by District were sufficient to address Student's needs. Both cases therefore involve some common issues of fact and law. They will both involve similar witnesses and exhibits as well. Consolidation of the cases will further the interests of judicial economy, obviating the need for two hearings on the same or similar issues. Additionally, District does not oppose consolidation of the cases.

For these reasons, Student's motion to consolidate is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015070259 [District'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 2015090569 [Student's Case]. All dates presently scheduled in Student's case shall now apply to the consolidated case.

DATE: September 16, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings