

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010080802

v.

EAST WHITTIER CITY SCHOOL DISTRICT,

EAST WHITTIER CITY SCHOOL DISTRICT,

OAH CASE NO. 2010060374

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S
MOTION TO BIFURCATE ISSUE FOR
DUE PROCESS HEARING

On June 9, 2010, the East Whittier City School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Complaint (District Complaint) that named Student. On August 20, 2010, Parents and Student, through counsel, filed with OAH a Request for Mediation and Due Process Hearing (Student Complaint) that named the District. Also on August 20, 2010, counsel for Parents and Student filed with OAH a motion to consolidate the cases, seeking to join Case Numbers. 2010080802 and 2010060374. The motion to consolidate was granted on September 3, 2010.

The District Complaint seeks a declaration that the District-conducted December 11, 2009 speech and language assessment was appropriate and that the District is not required to provide Student with an independent education evaluation (IEE) at District expense.

The Student Complaint contains two issues. The first issue is whether Student's parents (Parents) are entitled to be reimbursed for the costs of an independent speech and language assessment obtained by Parents for the reason that the December 11, 2009 District-conducted speech and language assessment was not appropriate. The second issue is (a) whether the District implemented the assessment plan signed by Parents on March 5, 2009 appropriately and (b) whether the April 16, 2009 occupational therapy assessment in the area of sensory integration was performed appropriately by the District.

The parties have agreed that hearing be continued because Student has recently obtained a new assessment report in the area of speech and language which should be presented and considered by Student's IEP team. The parties have agreed that the hearing on the issues regarding the speech and language assessment be continued until February 1, 2011.

Student seeks by this motion to have the OT assessment issue (issue two of the Student Complaint) heard on the date originally scheduled for hearing in the consolidated cases as the two issues are not related. Student also contends that he would suffer prejudice as his sensory integration needs would go unmet during the continuance. The District opposes the motion on grounds of judicial economy.

Student is correct that the two issues are separate and distinct. The witnesses and exhibits for each issue are different and judicial economy is not a factor. Thus, good cause has been shown.

ORDER

1. Student's motion to bifurcate issue number 2 of his complaint is hereby GRANTED¹;

2. Hearing on issue 2 will proceed on November 8 and 9, 2010 at 9:30 a.m. at the offices of the District located at 8036 S. Ocean View Avenue, Whittier, CA 90602; and

3. The due process hearing for the remaining issues shall go forth on February 1 through 4, 2011.

Dated: November 4, 2010

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

¹ Issue two is as follows: (a) whether the District implemented the assessment plan signed by Parents on March 5, 2009 appropriately and (b) whether the April 16, 2009 occupational therapy assessment in the area of sensory integration was performed appropriately by the District.