

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

BAKERSFIELD CITY SCHOOL DISTRICT,

OAH CASE NO. 2014050352

v.

PARENT ON BEHALF OF STUDENT ,

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014031066

v.

BAKERSFIELD CITY SCHOOL DISTRICT.

ORDER FOLLOWING PRE-HEARING
CONFERENCE, GRANTING
DISTRICT'S MOTION TO
CONSOLIDATE, AND CONTINUING
PREHEARING CONFERENCE

On May 9, 2014, a telephonic prehearing conference (PHC) was commenced in OAH Case No. 2014031066 (Student's case) before Administrative Law Judge (ALJ) Robert G. Martin, Office of Administrative Hearings (OAH). Mark Ohl, Esq. appeared on behalf of Student. Sarah W. Sutherland, Esq., appeared on behalf of Bakersfield City School District. The PHC was recorded.

Both parties filed prehearing conference statements in Student's case on May 6, 2014. Also on May 6, 2014, District filed a request for Due Process Hearing (District's complaint) naming Student in OAH case number 2014050352 (District's case), and a motion to consolidate District's case with Student's case. On May 9, 2014, Student filed an opposition to District's motion to consolidate.

District's motion to consolidate was heard at the start of the PHC. Based on discussion of the parties, the ALJ issues the following order:

District's Motion to Consolidate

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, the matters involve the same parties and common questions of law or fact. Student's complaint alleges, among other things, that District's offer of placement and related services at Student's December 3, 2013 individualized education program (IEP) team meeting failed to provide Student a free appropriate public education. District's complaint seeks a specific determination that District's offer in Student's December 3, 2013 to have qualified District staff, rather than a non-public agency, provide Student intensive individual services, constituted a FAPE.

The facts and law that are relevant to whether District's offer in Student's December 3, 2013 IEP team meeting to have qualified District staff, rather than a non-public agency, provide Student intensive individual services, constituted a FAPE are the same facts and law relevant to Student's claim that District's offer of placement and related services at the December 13, 2014 IEP denied Student a FAPE. District and Student presumably will rely on many of the same witnesses and documents to support their respective contentions. Thus, it will further the interests of judicial economy to save time and prevent inconsistent rulings by taking evidence on all of the above issues at a single, consolidated hearing. Accordingly, consolidation is granted.

ORDER

1. District's motion to consolidate District's case number 2014050352 with Student's case number 2014031066 is granted.
2. District's case number 2014050352 is designated as the primary case in the consolidated matters, and all future pleadings and other documents in the consolidated matters are to be maintained in that case file.
3. All dates previously set in Student's case are vacated.
4. The consolidated matters will proceed together on the following dates:

Completion of Prehearing
Conference: May 16, 2014 at 3:00 p.m.

Due Process Hearing: May 21, 2014, from 9:30 a.m. to 4:30 p.m., May 22, 27 and 28 from 9 a.m. to 4:30 p.m., and continuing day to day, Monday through Thursday, 9:00 a.m. to 4:30 p.m., and as needed at the discretion of the Administrative Law Judge.

The above hearing dates remain subject to modification.

5. The parties will submit supplemental prehearing conference statements addressing District's case only, no later than 5:00 p.m. on May 13, 2014.
6. The 45-day timeline for issuance of the decision in the consolidated matters shall be based on the May 6, 2014 filing date of District's complaint.

DATE: May 09, 2014

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings