

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. TORRANCE UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016020930
TORRANCE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015120801 ORDER GRANTING MOTION TO CONSOLIDATE

On December 23, 2015, Torrance Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) in OAH case number 2015120801, naming Student (District’s Case).

On February 19, 2016, Student filed her own complaint naming District in OAH case number 2016020930 (Student’s Case). On the same date Student also filed a motion to consolidate Student’s Case with District’s Case. District has not filed a response.

APPLICABLE LAW

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].)

DISCUSSION

District’s complaint asks that it be permitted to conduct several assessments of Student without Parents’ consent, and claims that it has not assessed Student since 2008.

District alleges that Parents have refused to consent to an assessment plan developed in 2015 that has been sent or given to them on multiple occasions.

Student's complaint, initially references a settlement agreement between the parties that was purportedly negotiated and executed in 2008. Student claims that one of the terms of the agreement calls for Parents to procure and pay for specific services for Student, and then they will be reimbursed by District. According to the complaint, District consistently reimbursed Parents for services they procured for Student after the agreement was signed, but ceased doing so in April 2015. As a result, Student claims that she has been denied a free appropriate public education.

Student's complaint contains an explanation as to why Parents did not consent to the assessment plan. Student also claims that District personnel told Father it would return to reimbursing Parents for services they procured for Student, if Father signed consent to the assessment plan. However, Student asks for no relief pursuant to these allegations. Instead, Student asks that District reimburse Parents for services they procured and paid for on behalf of Student since March 2015, and asks that District pay for any services procured by Parents for Student that have not yet been paid for. Student also asks for "compensatory services." Lastly, Student asks that OAH order District to develop an individualized education program with terms that appear to be similar to those contained in two pages attached to her complaint that are purportedly from the 2008 settlement agreement.

In regards to consolidation of these two cases, District's case concerns assessment of Student and alleged refusal of Parents to consent to assessment. Student's case centers on the provision of a free appropriate public education to Student since March 2015, and going into the future, particularly asking that Parents be able to procure services for Student and then be reimbursed for them. However, although these appear to be very different legal issues, the cases involve the same parties, and one can anticipate that one or more Parents will be testifying in both cases, as will special education personnel from District. Each case currently has an upcoming mediation, and each case has its own prehearing conference and due process hearing scheduled. In each case, the ALJ conducting the hearing will need to be provided with information concerning Student's current status by way of documentary evidence and testimony, and will be making factual findings in that regard. Therefore, consolidation of the matters furthers the interests of judicial economy by saving time and resources of the parties, their attorneys, and OAH, and preventing conflicting factual findings. Accordingly the motion to consolidate is granted.

ORDER

1. Student's motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2015120801 (District's Case) are vacated.

3. Mediation in the above-captioned consolidated case shall be held on March 24, 2016, at 9:30 a.m. The Prehearing Conference in the consolidated cases shall be held on April 8, 2016, at 3:00 p.m. The Due Process Hearing in the consolidated cases shall be held on April 14, 2016, beginning at 9:30 a.m. on the first day, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

4. 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 2016020930 (Student's Case).

IT IS SO ORDERED.

DATE: March 7, 2016

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REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings