BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018060529
PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017120075 ORDER GRANTING MOTION TO AMEND; MAINTAINING CONSOLIDATION; DESIGNATING DISTRICT CASE AS LEAD CASE; AND CONFIRMING PREHEARING CONFERENCE AND HEARING DATES

On November 30, 2017, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Oakland Unified School District. On March 15, 2018, OAH granted Student's motion to amend. On April 27, 2018, OAH granted Student's second motion to amend. On June 13, 2018, Oakland filed a complaint naming Student. On June 15, 2018, OAH granted Oakland's motion to consolidate its complaint with Student's second amended complaint, and deemed Oakland's case as the lead case. This consolidated matter is currently scheduled for hearing on October 2-4, 2018.

On September 4, 2018, Oakland filed a Motion to Amend along with a proposed first amended complaint. On September 7, 2018, Student filed a response and opposition. Student maintains that Oakland's proposed amendment is already covered by its initial complaint. However, Student does not object to the filing of the amended complaint so long as this does not result in a further continuance of the hearing dates.

APPLICABLE LAW AND DISCUSION

Amended Complaints

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Oakland's initial complaint identified one issue for hearing, namely, whether its May 2018 individualized education program offer provides Student a free appropriate public education in the least restrictive environment. Oakland seeks to amend its complaint to add an additional claim, namely, whether its academic, speech and language, psycho-educational, occupational therapy, and transition assessments, which were presented at the May 2018 IEP team meetings, are appropriate such that Student is not entitled to publically funded independent educational evaluations in these areas. Parent recently requested independent evaluations in these areas on August 30, 2018. Oakland's initial complaint did not raise the appropriateness of its assessments as an issue for hearing. Conducting one hearing regarding the May 2018 IEP offer and its underlying assessments furthers the interests of judicial economy. Oakland's motion to amend is timely and is granted.

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].)

Oakland's amended complaint includes its original issue regarding the appropriateness of its May 2018 IEP offer. As specified in the June 15, 2018 Order Granting Consolidation, Student's second amended complaint raises similar issues of law and fact. As such, consolidation remains appropriate for the reasons specified in the June 2018 Order.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by Oakland's amended complaint.

ORDER

1. Oakland's motion to amend is granted. The amended complaint shall be deemed filed on the date of this order.

2. The two cases shall remain consolidated. The 45-day timeline for issuance of a decision shall be based on the date of filing of the amended complaint in Oakland's Case, OAH Case Number 2018060529.

3. All pending dates remain. Specifically, the prehearing conference shall be held on September 24, 2018, at 10:00 a.m., and the hearing shall occur on October 2, 2018, at 9:30 a.m., October 3-4, 2018, at 9:00 a.m., and continuing day to day as needed at the discretion of the ALJ. The last date for filing prehearing conference statements and prehearing motions is September 19, 2018.

4. No further Scheduling Order shall issue.

IT IS SO ORDERED.

DATE: September 10, 2018

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings