BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020030591

and

GLENDALE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020010712

ORDER DENYING GLENDALE'S MOTION TO CONSOLIDATE

APRIL 23, 2020

On January 22, 2020, Glendale Unified School District filed with the Office of Administrative Hearings, also called OAH, a request for due process hearing in OAH case number 2020010712, First Case, naming Student.

On March 9, 2020, Parent as educational rights holder and on behalf of Student filed with OAH a request for due process hearing in OAH case number 2020030331, Second Case, naming Glendale.

On March 16, 2020, Parent as educational rights holder and on behalf of Student filed with OAH a request for due process hearing in OAH case number 2020030591, Third Case, naming Glendale.

First Case and Third Case were consolidated by OAH order dated April 20, 2020.

On April 20, 2020, Glendale filed a motion to consolidate all three cases. On April 23, 2020, Student filed an opposition.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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].)

A parent is entitled under title 20 United States Code section 1415(o) of the Individuals with Disabilities Education Act, called the IDEA, to file a separate due process complaint on an issue separate from a due process complaint already filed.

Section 1415(o) also entitles the parent to separate hearings, unless he or she amends one of the complaints to include all the issues and dismisses the other to allow all the issues to be heard in one hearing.

Glendale contends that all three cases involve the same parties, related issues and similar evidence and witnesses, and that consolidation is in the interests of judicial economy. Student contends that Second Case involves a separate issue.

The two consolidated cases share common questions of fact and law. First Case seeks a determination that Glendale's 2019 assessments were appropriate, and that the individualized education programs, or IEPs, dated December 17, 2018 and September 16, 2019, as amended on October 1, 2019, offered Student a free appropriate public education, called a FAPE. Third Case seeks a determination that Glendale failed to assess Student in all areas of suspected need in 2019, and that the IEPs developed for the 2018-2019 and 2019-2020 school years did not offer Student a FAPE.

However, in Second Case, Parent alleges that Glendale denied Student a free appropriate public education by failing to timely convene an IEP team meeting after Student's request in January 2020, which denied Student participation in the IEP development process. This issue is separate from those alleged in the other cases, and the IDEA entitles Parent to file separate a separate complaint, and have a separate hearing, on that issue. Accordingly, consolidation is denied.

To the extent a decision rendered through due process at a hearing on one of Student's cases against Glendale results in a decision with factual findings or legal conclusions relevant to Student's other case, Student or Glendale may seek application of the doctrines of collateral estoppel or res judicata in the subsequent proceeding to

avoid calling the same witnesses, presentation of the same evidence, and conflicting results.

IT IS SO ORDERED.

DocuSigned by:
Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings