BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND VALLEY CHARTER ELEMENTARY SCHOOL,	OAH Case No. 2017100817 (Primary)
LOS ANGELES UNIFIED SCHOOL DISTRICT AND VALLEY CHARTER ELEMENTARY SCHOOL, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2017060494 ORDER GRANTING MOTION TO CONSOLIDATE

On June 12, 2017, Valley Charter Elementary School filed a Due Process Hearing Request with the Office of Administrative Hearings in OAH case number 2017060494, naming Parents on behalf of Student.

On August 9, 2017, Charter and Los Angeles Unified School District filed a Joint Motion to Amend the Due Process Hearing Request to add District as a party to case number 2017060494. On August 17, 2017, the Joint Motion to Amend was granted. Case number 2017060494 seeks an order that the January 20, 2017 individualized education program offered Student a free appropriate public education such that it can be implemented without parental consent.

On October 18, 2017, Student filed a Request for Due Process with OAH in OAH case number 2017100817 (Student's Case), naming District and Charter (collectively, Respondents).

On October 18, 2017, Student filed a motion to consolidate case number 2017060494 (Respondents' Case) with Student's Case. Student argues that Respondents' Case and Student's Case involve common questions of law and fact, warranting consolidation. Student claims District's assessments were not appropriate which resulted in the January 20, 2017 IEP which denied Student a FAPE.

On October 20, 2017, Charter filed opposition to the motion. Charter argues that consolidating the cases will delay adjudication of Respondents' Case and is prejudicial because Charter has incurred costs preparing for the current hearing. Charter agrees that Student's issue two is identical to Respondents' issue, but argues that a decision on Respondents' Case will render issue two in Student's Case moot. Charter concedes that Respondents will rely on the assessment Student is challenging to prove the January 20, 2017 IEP offered FAPE, but argues that because Respondents' Case does not seek a determination as to the appropriateness of District's assessment, it is a waste of Charter resources to have that issue adjudicated as part of Respondents' Case. District did not file any papers opposing the motion.

The parties argued the merits of the motion at the October 20, 2017 prehearing conference and the motion was taken under submission by the ALJ.

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].)

Here, Student's Case and Respondents' Case involve common questions of law and fact, specifically, whether the January 20, 2017 IEP offered Student a FAPE. Notwithstanding Student's delay in filing Student's Case and seeking consolidation, consolidation furthers the interests of judicial economy because having the cases heard together will avoid a duplication of testimony and other evidence. Adjudication of Respondents' Case does not render Student's issue two moot. The ALJ cannot award Student remedies in Respondents' Case if Student prevails. In addition, the appropriateness of District's assessment is foundational to Respondents' Case since District and Charter are relying on District's assessment to prove that the January 20, 2017 IEP offered FAPE. Accordingly, consolidation is granted. Student's case is designated the primary case.

ORDER

1. Student's Motion to Consolidate is granted.

2. All dates previously set in OAH Case Number 2017060494 (Respondents' Case) are vacated.

3. 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 2017100817 (Student's Case).

IT IS SO ORDERED.

DATE: October 25, 2017

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings