

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

CASTRO VALLEY UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2014050347

CASTRO VALLEY UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014040542

ORDER GRANTING JOINT MOTION
TO CONSOLIDATE /DENYING
REQUEST TO ADVANCE HEARING
DATES

On April 10, 2014, the Castro Valley Unified School District filed a request for due process hearing (complaint) in OAH case number 2014040542, naming Parents on behalf of Student. Castro Valley contended that its assessments of Student were legally sufficient and that it was therefore not required to fund the independent educational evaluations requested by Student's parents.

On May 7, 2014, Student filed his complaint naming Castro Valley. Student alleges that Castro Valley: (1) denied him a free appropriate public education by failing to adhere to its child find obligation as to Student and failing to find Student eligible for special education; (2) failed to assess Student in all areas of suspected disability; (3) failed to develop an educational program tailored to Student's individual and unique needs; and (4) failed to consider an evaluation conducted by the University of California at Berkeley.

On May 9, 2014, the parties filed a joint motion to consolidate their two cases, along with a request to advance the hearing dates of the consolidated cases, and a request for a specific mediator and mediation date.

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, Castro Valley's case and Student's case involve a common question of law or fact, specifically, the scope and validity of Castro Valley's assessments. Many of the same witnesses will need to testify in both cases, and many of the same exhibits will be offered. Consolidation therefore furthers the interests of judicial economy. Accordingly, consolidation is granted.

Request to Advance Hearing Dates

The parties request that the hearing dates, which would normally be based on the timeline in Student's case, be advanced until June 9, 10, and 11, 2014. However, OAH's calendar is too impacted to grant the parties' request. The consolidated matter shall be heard on the dates presently scheduled in Student's case. Should the parties wish to continue the hearing, they may submit a motion to continue, which OAH will then consider.

Request for Specific Mediation Date and Mediator

The parties request to schedule the mediation on May 28, 2014, is granted. OAH shall consider the parties' request for a specific mediator.

ORDER

1. The parties' Joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014040542 (Castro Valley's 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 2014050347 (Student's Case). The prehearing conference shall be held on June 20, 2014, at 1:00 p.m. The due process hearing shall be held starting on July 1, 2014.

4. The parties' request to advance the mediation date is granted. The mediation shall now take place on May 28, 2014, starting at 9:30 a.m.

DATE: May 12, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings