

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENTS ON BEHALF OF STUDENT,

and

CENTRAL UNIFIED SCHOOL DISTRICT,
OAH CASE NUMBER 2021090031
OAH CASE NUMBER 2021060059

ORDER GRANTING MOTION TO CONSOLIDATE AND
DENYING MOTION TO QUASH SUBPOENA DUCES TECUM
AS MOOT; ORDER SETTING ORDER TO SHOW CAUSE

SEPTEMBER 3, 2021

On May 28, 2021, Central Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing, called a complaint, in OAH case number 2021060059, First Case, naming Student.

On June 7, 2021, Parents on behalf of Student filed a complaint in OAH case number 2021060291, naming Central Unified. On June 8, 2021, OAH granted Central Unified's request to amend its complaint. On June 16, 2021, OAH granted Student's

motion to consolidate First Case with Student's case, OAH case number 2021060291. On July 19, 2021, Student moved to dismiss his complaint. At the July 23, 2021 prehearing conference, OAH continued First Case.

On August 31, 2021, Parents on behalf of Student filed a complaint in OAH case number 2021090031, Second Case, naming Central Unified.

On August 31, 2021, Student filed a Motion to Consolidate First Case with Second Case. On September 3, 2021, Central Unified filed an objection to consolidation on the ground that the motion for consolidation was untimely and would result in unnecessarily and unjustly delaying Central Unified's right to timely resolve the issues raised in First Case. In the alternative, if consolidation was granted, Central Unified requested to bifurcate the 2020-2021 school year issues from 2021-2022 school year issues.

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].)

Here, First Case and Second Case involve a common question of law or fact, specifically, whether Central Unified's offer of FAPE during the 2020-2021 school year denied Student a FAPE. In addition, consolidation furthers the interests of judicial

economy because both cases involve the same evidence and testimony, and avoids inconsistent findings and orders by OAH. Accordingly, consolidation is granted.

Second Case, OAH Case No. 2021090031, is designated as the primary case. All dates previously set in First Case, OAH case number 2021060059 are vacated. The matter shall proceed on the dates currently set in Second Case, OAH case number 2021090031. Central Unified's motion to bifurcate the issues is denied. All issues shall be heard on the dates currently set in Second Case.

No further continuances shall be granted in this consolidated matter without a showing of good cause supported by declaration. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing in Second Case, OAH case number 2021090031.

MOTION TO QUASH SUBPOENA DUCES TECUM

On August 31, 2021, Student filed a motion to quash a subpoena duces tecum issued by Central Unified to Sundance Canyon Academy for records to be produced on September 14, 2021. Having vacated the hearing dates in First Case, the motion to quash is denied as moot. Central Unified may re-serve Sundance Canyon Academy its subpoena duces tecum for records to be produced for the hearing dates set in the consolidated matter.

MOTION FOR SANCTIONS

On September 3, 2021, Central Unified filed a Motion for Sanctions against Student's attorney Richard Isaacs. Central Unified contends Student's complaint and motion for consolidation filed on August 31, 2021, was a bad faith, frivolous action by Isaacs to harass Central Unified and to delay the hearing in First Case. Central Unified

requests OAH set an order to show cause as to why sanctions to cover Central Unified's costs related to communications and the filing of motions regarding Second Case should not be imposed on Isaacs.

An Order to Show Cause as to why Issacs should not be sanctioned is ordered and scheduled for September 20, 2021, at 10:00 AM. Central Unified shall file by 5:00 PM on September 7, 2021, a motion for cost shifting with declarations, with a description and amount of Central Unified's costs it seeks to be shifted to Issacs. Student shall file a reply no later 5:00 pm on September 10, 2021.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings