

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS REGARDING:

PARENTS ON BEHALF OF STUDENT,

BONITA UNIFIED SCHOOL DISTRICT,

AND

COVINA-VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022030437

OAH CASE NUMBER 2022030059

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE

MARCH 21, 2022

On March 21, 2022, Administrative Law Judge Penelope Pahl, Office of Administrative Hearings, held a prehearing conference by videoconference in the case of Covina-Valley v. Student, OAH Case Number 2022030059. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney, Daniel Lowe, appeared on behalf of Covina-Valley Unified School District. No appearance was made on behalf of self-represented Parents on behalf of Student. The prehearing conference was recessed from 1:10 pm to 1:30 PM. An OAH

case manager attempted to contact Parents, who are self-represented. The call went to voice mail which informed the case manager that the mailbox was full. Parent had received notice of the Prehearing Conference in the Scheduling Order, which was served on March 3, 2022; and in the videoconference invitation, which was issued on the morning of March 21, 2022. The PHC reconvened and proceeded at 1:30 PM. The PHC was recorded. Based upon discussion with counsel for Covina-Valley, who is now also counsel for Bonita Unified School District, the ALJ issues the following order:

MOTION TO CONSOLIDATE:

On March 2, 2022, Covina-Valley Unified School District filed a Request for Due Process Hearing in OAH case number 2022030059, with the Office of Administrative Hearings, called OAH, naming Student as respondent. On March 14, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022030437, naming Covina-Valley Unified School District and Bonita Unified School District as respondents.

On March 16, 2022, Covina-Valley and Student jointly filed a Motion to Consolidate the cases accompanied by a proof of service, demonstrating service on Bonita Unified School District that same day. On March 16, 2022, Covina-Valley and Parents on behalf of Student, jointly requested consolidation of Covina-Valley case and the case subsequently filed by Parents on behalf of Student. Bonita Unified School District, which was named as a respondent in Student's case along with Covina-Valley Unified School District, was not a party to the motion. However, the motion had been served on Bonita.

At the PHC, Attorney Lowe represented that Covina-Valley had entered into a joint defense agreement with Bonita approximately an hour prior to the start of the March 21, 2022 Prehearing Conference, and that he would be representing both

districts. Lowe stated Bonita did not oppose the pending request for consolidation of the cases. Following the conclusion of the Prehearing Conference, Bonita filed a notice of non-opposition to the motion to consolidate.

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, both cases involve common questions of law and fact, specifically, whether assessments were legally compliant, evaluated all areas of suspected disability and, if not, whether parent is entitled to independent educational evaluations. Consolidation furthers the interests of judicial economy because the two cases would necessarily involve duplicative witnesses and evidence. The motion to consolidate was granted at the time of the Prehearing Conference.

ORDER

1. The parties' Motion to Consolidate is granted.
2. Student's Case, OAH case number 2022030437 is designated as the primary case. The case shall proceed on the dates previously scheduled in Student's case, which are:

PREHEARING CONFERENCE will be held on April 25, 2022, at 10:00 AM
HEARING will be held on May 3, 4, and 5, 2022.

3. All dates previously set in Covina-Valley's Case, OAH case number 2022030059, are vacated.
4. 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 Student's Case, OAH case number 2022030437.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings