BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

# IN THE MATTER OF:

# PARENT ON BEHALF OF STUDENT,

v.

# FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT AND THE MET SACRAMENTO PUBLIC HIGH SCHOOL.

# OAH CASE NUMBER 2020061034

# ORDER DENYING MOTION TO BIFURCATE, GRANTING MOTION TO UNCONSOLIDATE

AUGUST 19, 2020

On June 29, 2020, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Folsom Cordova Unified School District. Also, on June 29, 2020, Student filed a separate complaint with OAH, naming The Met Sacramento Public High School. At Student's request, OAH consolidated the complaints into one case, designated OAH case number 2020061034. On July 1, 2020, OAH sent a scheduling order to Folsom Cordova and The Met.

On August 11, 2020, Folsom Cordova filed a Motion to Bifurcate the due process hearing in this case on two grounds. First, Folsom Cordova requested that OAH bifurcate the case against Folsom Cordova into two separate due process hearings, one to determine whether OAH has jurisdiction to decide the issue in Student's complaint naming Folsom Cordova, and depending on the outcome of the first hearing, a second hearing to decide Student's issue.

Second, Folsom Cordova requested that OAH hold two separate hearings, one hearing to decide Student's issue against Folsom Cordova, and a second hearing to decide Student's issues against The Met. The request is, essentially, a Motion to Unconsolidate Student's cases against Folsom Cordova and The Met, and OAH will treat it as such.

## MOTION TO BIFURCATE

Folsom Cordova argued OAH does not have jurisdiction to decide the issue in Student's complaint because the issue alleged Folsom Cordova failed to respond to a records request after Student was no longer enrolled in the school district, and that Folsom Cordova did not have a duty to provide Student with a free appropriate public education.

No special education law or regulation addresses bifurcation of issues. OAH generally looks to the California Administrative Procedure Act, Government Code sections 11340 et. seq. for guidance. Government Code section 11507.3 provides that an administrative law judge may order a separate hearing of any issue or issues, in furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy.

Student alleges a single issue against Folsom Cordova regarding whether Folsom Cordova provided a complete copy of Student's records in response to Parent's request. Folsom Cordova's contention that OAH does not have jurisdiction to decide this issue because Student was not enrolled in Folsom Cordova at the time of the request, is a defense to Student's issue and does not require a separate due process hearing to determine its merit. Further, holding two separate hearings to decide one issue does not promote judicial efficiency or economy. Therefore, Folsom Cordova's Motion to Bifurcate is denied.

## MOTION TO UNCONSOLIDATE

Folsom Cordova argued Student's complaint naming The Met should not have been consolidated with Student's complaint naming Folsom Cordova. On August 13, 2020, Student filed an opposition to Folsom Cordova's request to separate the two cases. Student argued Folsom Cordova's failure to provide Student's records interfered with Student's ability to obtain a free appropriate public education from The Met. Folsom Cordova's motion and Student's opposition were argued at a prehearing conference on August 14, 2020. At the prehearing conference, The Met agreed with Folsom Cordova and requested that OAH separate Student's complaints into two different cases.

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 cases that involve the same parties, a common question of law or fact, and when consolidation of the cases 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).)

OAH has the sole discretion to determine whether cases should be consolidated or separated. (Code of Regs., § 1016, subd. (c).) Before OAH consolidates cases, it must provide notice to all parties and allow the parties a reasonable time to file any opposition. (Code of Regs., § 1016, subd. (b).)

Student did not request consolidation in writing, Folsom Cordova and The Met did not have the opportunity to respond to, or oppose the request, and OAH did not provide notice to the parties of consolidation. Further, Student's separate complaints against Folsom Cordova and The Met do not contain common questions of fact or law. Student's case against Folsom Cordova involves a failure to respond to Parent's January 2019 records request. Student's case against The Met involves The Met's failure to appropriately assess, hold a timely individualized education program team meeting, and failure to offer special education eligibility to Student, during the 2019-2020 school year. Holding a single hearing with two different responding parties and different issues does not further the interests of judicial economy. Finally, holding two separate hearings on the respective cases will not prejudice any party or result in inconsistent rulings. Therefore, Folsom Cordova's Motion to Unconsolidate Student's case naming Folsom Cordova from Student's case naming The Met, is granted.

## ORDER

1. Folsom Cordova's Motion to Bifurcate is denied.
2. Folsom Cordova's Motion to Unconsolidate is granted. Student's case naming Folsom Cordova shall remain designated as OAH case number 2020061034 and shall proceed on the scheduled hearing dates.
3. The filing date of Student's complaint naming The Met was June 29, 2020. OAH will open a separate case and assign a different case number for this case. The prehearing conference will be held on September 14, 2020, at

1:00 PM. The due process hearing will be held on September 22, through 24, 2020, unless otherwise ordered.

4. Prehearing motions, including any request for mediation or continuance of the due process hearing, must be filed at least three business days before the prehearing conference.

DocuSigned by:
Tara Doss
0D223C0D8032412...

Tara Doss

Administrative Law Judge

Office of Administrative Hearings