BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENTS ON BEHALF OF STUDENT,	OAH CASE NO. 2013060287
v.	ORDER DENYING REQUEST TO VACATE AND DENYING REQUEST FOR RECONSIDERATION
LODI UNIFIED SCHOOL DISTRICT.	

On June 4, 2013, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in the Office of Administrative Hearings (OAH) case number 2013060287 (First Case), naming the Lodi Unified School District (District).

On June 27, 2013, Student filed a Request for Fair Hearing in OAH case number 2013061092 (Second Case), naming the Valley Mountain Regional Center (VMRC).

On July 10, 2013, Student filed a Motion to Consolidate the First Case with the Second Case. The District and the VMRC each timely filed an opposition to Student's request to consolidate.

On July 18, 2013, the undersigned administrative law judge issued an order denying Student's request to consolidate, finding that the First Case and the Second Case do not involve a common question of law or fact, or the same parties, and it does not further the interests of judicial economy to consolidate these cases.[1]

On July 18, 2013, Student withdrew his request to consolidate. On July 24, 2013, Student filed a motion to vacate the July 18, 2013 order. Although entitled a motion to vacate, Student's motion is a thinly veiled request for reconsideration.

APPLICABLE LAW

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

[1] The July 18, 2013 order was fax-served on each party on July 19, 2013.

DISCUSSION AND ORDER

Student alleges no new facts, circumstances, or law in support of the request for reconsideration. Student, again, asserts that OAH is obligated, automatically, to consolidate the First Case and the Second Case Student bases this assertion solely upon Government Code § 7586, which requires joinder of governmental agencies when "multiple services that are the responsibility of more than one state department" are being requested.

Student fails to understand that the services requested in the First Case and the Second Case do not fall under the shared responsibility of more than one governmental agency. The services requested from the District in the First Case are distinct and different from the services requested from the VMRC in the Second Case. Specifically, under the Individuals with Disabilities Education Act (IDEA), the District, as the Local Educational Agency (LEA), has the singular responsibility for ensuring that Student is provided a free appropriate public education (FAPE), including all services which constitute a FAPE. (20 U.S.C. § 1412(a)(1)(A); 34 C.F.R. § 300.101(a)(2006).) This responsibility is not shared with the VMRC. The services which are provided by Regional Centers like the VMRC are separate from those provided under the IDEA. Regional Centers provide daily living services and supports to persons with developmental disabilities, unrelated to the provision of a FAPE. (Welf. & Inst.Code, §§ 4400 et seq., 4512.)

For these reasons, contrary to Student's assertion, there is no automatic requirement that OAH consolidate cases. In fact, there is no statute or regulation which specifically provides a standard to be applied in deciding a motion to consolidate special education cases. Rather, by analogy, OAH applies Government Code § 11507.3 and 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 various issues against the District arise from Individualized Education Programs (IEP's) dated July 26, 2011, May 25, 2012, and May 23, 2013. In each issue, Student asserts he was denied a FAPE. The District, as the LEA, has the sole responsibility for providing Student's IEP's and a FAPE. The VMRC does not share this responsibility and cannot be held accountable for special education and related services which were provided to Student pursuant to the IEP process. (20 U.S.C. § 1412(a)(1)(A); 34 C.F.R. § 300.101(a) (2006).) Thus, the FAPE claims against the District do not arise from the same transaction or occurrence which form the basis of Student's claims against the VRMC. In addition, Student's claims against the VMRC fall under the Lanterman Act (Welf. & Inst. Code, §§ 4400 et seq., 4512), and apply an entirely different legal standard than is applicable under the IDEA, which govern the District's obligations to Student.

Consequently, the First Case and the Second Case do not share a common question of fact and/or law.

Moreover, the District and VMRC are likely to call different witnesses because the First Case and the Second Case involve different factual circumstances and require different legal analysis. Also, if the cases were consolidated, Student's witnesses would be required to testify for a longer period of time to address separate facts and contrasting legal standards. Therefore, consolidation of the First Case and the Second Case does not further the interests of judicial economy.

In sum, the First Case and the Second Case do not involve a common question of law or fact, or the same parties, and it does not further the interests of judicial economy to consolidate these cases. For these reasons, Student's request to consolidate was, and remains, denied.

Student's motion to vacate is also denied. Student's withdrawal of his motion to consolidate the First Case and the Second Case was not submitted with prejudice. In light of both cases being open and pending before OAH, it serves judicial economy to maintain an established order pertaining to consolidation of these matters.

Accordingly, Student's request for reconsideration and to vacate are Denied.

IT IS SO ORDERED.

Dated: July 29, 2013

/s/
PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings