BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020030591

and

GLENDALE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020010712

ORDER GRANTING STUDENT'S MOTION TO CONSOLIDATE

APRIL 20, 2020

On January 22, 2020, Glendale Unified School District filed with the Office of Administrative Hearings, also called OAH, a request for due process hearing in OAH case number 2020010712, First Case, naming Student.

On March 9, 2020, Parent as educational rights holder and on behalf of Student filed with OAH a request for due process hearing in OAH case number 2020030331, Second Case, naming Glendale.

On March 16, 2020, Parent as educational rights holder and on behalf of Student filed with OAH a request for due process hearing in OAH case number 2020030591, Third Case, naming Glendale.

On April 13, 2020, Student filed a motion to consolidate First Case with Third Case.

On April 16, 2020, Glendale filed an opposition to the motion, on the grounds that consolidation would result in Second Case being heard prior to First Case and Third Case. On April 17, 2020, Student filed a response.

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].)

A parent is entitled under title 20 United States Code section 1415(o) to file a separate due process complaint on an issue separate from a due process complaint

already filed. Section 1415(o) also entitles the parent to separate hearings, unless he or she amends one of the complaints to include all the issues and dismisses the other to allow all the issues to be heard in one hearing.

Here, First Case filed by Glendale and Third Case filed by Student involve common questions of law and fact. First Case seeks a determination that Glendale's 2019 assessments were appropriate, and that the IEPs dated December 17, 2018 and September 16, 2019, as amended on October 1, 2019, offered Student a free appropriate public education, called a FAPE. Third Case seeks a determination that Glendale failed to assess Student in all areas of suspected need in 2019, and that the IEPs developed for the 2018-2019 and 2019-2020 school years did not offer Student a FAPE. In addition, consolidation furthers the interests of judicial economy because the same witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately, and avoid the possibility of conflicting results.

Currently, First Case and Second Case are scheduled to be heard one week prior to Third Case. Second Case alleges that Glendale denied Student a FAPE by failing to hold a timely IEP when Student requested one on January 21, 2020. Glendale opposes consolidation because, as a result of consolidation, Second Case will be heard before the consolidated First Case and Third Case. Parents on behalf of Student are entitled to separate hearings, and Glendale cites no authority requiring an earlier-filed case to be heard prior to a later-filed case. Accordingly, consolidation is granted.

To the extent a decision rendered through due process at a hearing on one of Student's cases against Glendale results in a decision with factual findings or legal conclusions relevant to Student's other case, Student or Glendale may seek application of the doctrines of collateral estoppel or res judicata in the subsequent proceeding to

avoid calling the same witnesses, presentation of the same evidence, and conflicting results.

ORDER

1. Student's motion to consolidate is granted.
2. Third Case is designated as the primary case. All dates previously set in First Case, OAH 2020010712, are vacated.
3. The consolidated matters shall proceed on the dates previously set for hearing in Third Case, OAH case number 2020030591.
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 Third Case, OAH case number 2020030591.

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Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings