BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

PLEASANT VALLEY SCHOOL DISTRICT AND VENTURA COUNTY OFFICE OF EDUCATION,

OAH CASE NUMBER 2019080672

and

PLEASANT VALLEY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019090819

ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING REQUEST TO CONSOLIDATE, DENYING STUDENT'S MOTION TO DISMISS, AND RESCHEDULING TIME OF PREHEARING CONFERENCE

On September 30, 2019, Administrative Law Judge Robert Martin, Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC.

Parent appeared on behalf of Student. Melissa Hatch, Attorney at Law, appeared on behalf of Pleasant Valley School District and Ventura County Office of Education. Pleasant Valley School District will be referred to as Pleasant Valley, and Ventura County Office of Education will be referred to as Ventura. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

On August 19, 2019, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing, also called a complaint, in OAH case number 2019080672, First Case, naming Pleasant Valley and Ventura. OAH set First Case for hearing on October 8 through 10, 2019.

On September 20, 2019, Pleasant Valley filed a complaint in OAH case number 2019090819, Second Case, naming Student. OAH set Second Case for a PHC on October 7, 2019, and a due process hearing on October 15 through 17, 2019.

Also on September 20, 2019, Pleasant Valley filed a Motion to Consolidate First Case with Second Case. Student did not file a response to Pleasant Valley's motion to consolidate.

On September 24, 2019, Student filed a Response to Pleasant Valley's complaint in Second Case, which Parent clarified at the PHC was intended to include a request to dismiss Pleasant Valley's complaint on grounds that Pleasant Valley had refused to meet with Parents many times, and was not in a position to be asking OAH for relief. At the PHC, Parent also contended Pleasant Valley's complaint should be dismissed because its request for a determination that Pleasant Valley's individualized education program, also called an IEP, developed on March 7 and May 31, 2019 offered Student a free appropriate public education, also called a FAPE, duplicated Student's Problem Number 3, that Pleasant Valley had failed to offer Student a FAPE for the 2019-2020 school year. Pleasant Valley and Ventura opposed Student's request for dismissal in their PHC statement for First Case, and at the PHC for First Case.

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 common questions of law or fact. Specifically, Student's Problem or Complaint Number 3 alleges that Pleasant Valley denied Student a FAPE by refusing to work with Parents to develop an appropriate FAPE offer for Student's 2019-2020 school year. Pleasant Valley's issue for hearing is whether its IEP developed for Student on March 7, 2019 and May 31, 2019, offered Student a FAPE, such that Pleasant Valley may implement the IEP without Parents' consent.

In these cases, consolidation furthers the interests of judicial economy because both cases involve the same factual issues regarding the development of Student's IEP for the 2019-2020 school year, and will involve the same witnesses and exhibits. Accordingly, consolidation is granted.

MOTION TO DISMISS

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education", and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Pleasant Valley's request in Second Case for a determination that its IEP offered Student a FAPE states a claim within OAH's jurisdiction. Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.), special education law does not provide for a summary judgment procedure

for claims within OAH jurisdiction. Student's motion to dismiss is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits of Student's defense that Pleasant Valley's alleged refusal to meet with Parents bars Pleasant Valley's claim. To the extent Student's motion is based on this defense to Pleasant Valley's claim, it is denied. Student's second grounds for dismissal – the alleged duplication of Student's Problem Number 3 by Pleasant Valley in its claim, must also be denied. Although the parties' claims involve similar issues of law and fact, the law to be applied to Pleasant Valley's affirmative claim, and the facts Pleasant Valley must prove to prevail, differ significantly from the law and facts relevant to Student's case. Accordingly, Student's motion to dismiss Pleasant Valley's Second Case is denied.

ORDER

1. Pleasant Valley's Motion to Consolidate case number 2019080672 and case number 2019090819 is granted.
2. Student's Motion to Dismiss case number 2019090819 is denied.
3. Second Case, OAH case number 2019090819, is designated as the primary case. All dates previously set in First Case, OAH case number 2019080672, are vacated.
4. The consolidated matters shall proceed on the dates previously set for hearing in Second Case. The Prehearing Conference in the consolidated cases shall be held on October 7, 2019. By agreement of the parties, the time for the October 7, 2019 PHC is advanced from 1:00PM to 10:00 AM. The Due Process hearing shall be held on October 15 through 17, 2019, beginning at 9:30 AM on the first day, and 9:00 AM on all other days, and continuing day to day as needed at the discretion of the Administrative Law Judge.

5. 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 Primary Case, OAH case number 2019090819.

IT IS SO ORDERED.

DocuSigned by:

DATED: October 3, 2019

Robert G. Martin
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Administrative Law Judge
Office of Administrative Hearings