BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2012100242
v.	
FRESNO UNIFIED SCHOOL DISTRICT,	
FRESNO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012100291
v.	
PARENT ON BEHALF OF STUDENT.	ORDER BIRFURCATING CASE

Student filed a due process hearing request (complaint one) with the Office of Administrative Hearings, State of California (OAH) on October 3, 2012. The Fresno Unified School District (District) filed a due process hearing request (complaint two) with OAH on October 5, 2012. The matters were consolidated on October 30, 2012.

Administrative Law Judge (ALJ) Margaret M. Broussard, heard this matter in Fresno, California, on September 10, 11, 12, 17, 18, 19, October 8, 28, 29, 30, 31 and November 1, 5, 6, and 7, 2013.[1]

On the last day of hearing, November 7, 2013, the parties were granted a continuance to file written closing arguments by the close of business on December 2, 2013. The closing arguments were timely submitted by both parties.

APPLICABLE LAW

Federal and state law pertaining to special education due process administrative proceedings do not contain specific references to the procedure for bifurcating issues at trial. Such authority resides in the discretion of the administrative law judge, provided the separate

[1] ALJ Adeniyi Ayoade began the hearing on September 10, 2013. However, due to a family emergency, the hearing was immediately adjourned before any substantive matters were heard and continued until September 11, 2013 when a new ALJ could be assigned.

hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

DISCUSSION

As the deliberation commenced in this matter, it became clear that the record should remain open as to the determination of any potential remedy the Student may have, should she prevail. Because Student has not been fully assessed by the District in more than 11 years, there is insufficient information available from which a determination regarding any potential remedy can be made. Therefore, for the limited purpose of the determination of Student's remedies, if any should she prevail in this case, is bifurcated. A decision will issue as to the District's issues, the District's remedies, if any, and Student's issues (first decision). A separate hearing, with a very limited scope, will be held regarding Student's remedies, if any, and a final decision will be issued including Student's remedies, if any (second decision).[2] The scope of the hearing and the limited additional evidence that will be allowed will be detailed in the first decision and at the status conference as described below.

ORDER

1. The matter is bifurcated. A decision regarding the District's issues and remedies and Student's issues will be issued. A separate decision will be issued regarding Student's remedies, should she prevail. Once the decision with Student's remedies issues, the decision will be final.
2. A telephonic status conference will be held on January 8, 2014 at 10:00 a.m.
3. The 45-day timeline for issuance of the decision in the consolidated bifurcated cases is continued until the scheduled status conference.

Dated: December 3, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings

[2] Should Student fail to prevail on any issue, or not be entitled to remedy otherwise, the first decision will vacate all dates set out in this order.