BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT AND ASPIRE COLLEGE ACADEMY	OAH Case No. 2017050146
OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017030950 ORDER GRANTING MOTION TO CONSOLIDATE AND DESIGNATING STUDENT'S CASE AS LEAD CASE

On March 16, 2017, Oakland Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017030950 (Oakland's Case), naming Parent on Behalf of Student. This matter is currently pending a prehearing conference on June 2, 2017, with hearing to begin on June 13, 2017.

On April 28, 2017, Student filed a Request for Due Process Hearing in OAH case number 2017050146 (Student's Case), naming Oakland and Aspire College Academy. This matter is currently pending mediation on June 1, 2017, a prehearing conference on June 16, 2017, with hearing scheduled to begin June 22, 2017.

On May 22, 2017, Oakland filed a Motion to Consolidate Oakland's Case with Student's Case. On May 24, 2017, Student filed an opposition. On May 24, 2017, Aspire filed a non-opposition.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH 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].)

DISCUSSION

Oakland moves to consolidate the two cases as they identify similar issues for hearing to which the same witnesses will be required to testify. Student opposes consolidation because Oakland has not produced her education records and she will be prejudiced if forced to go to hearing without these records.[1] Student also opposes consolidation as she may move to amend her complaint to include issues regarding a May 24, 2017 individualized education program team meeting and offer, and consolidating the two cases will delay a determination of whether she is entitled to an independent evaluation.

Oakland identifies as issues for hearing whether its November 2016 psycho-educational assessment of Student was appropriate such that Student is not entitled to an independent educational evaluation, and whether the December 2016 IEP offers Student a free appropriate public education in the least restrictive environment. Student raises similar issues as to Oakland, including whether it denied Student a FAPE during the 2016-2017 school year by failing to: design and implement a behavior support plan; offer a program that allowed her to make appropriate academic and behavioral progress; offer social skills and communication interventions; and provide Student an independent educational evaluation. Student also alleges additional procedural violations as to Oakland and claims against Aspire for the 2014-2015 and 2015-2016 school years.

Here, Oakland's Case and Student's Case involve common questions of law and fact, specifically, whether Oakland appropriately assessed and identified Student's needs during the 2016-2017 school year, and offered an appropriate IEP. Accordingly consolidation is warranted and will prevent the risk of inconsistent rulings. In addition, consolidation furthers the interest of judicial economy because both cases involve at least two of the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve the introduction of the same or similar documents.

Student's concern regarding records production has already been addressed in a separate order. Student's argument that she may request to file an amended complaint and that this will delay resolution of the independent evaluation issue is not persuasive. Student is not required to file an amended complaint regarding a subsequent IEP team meeting or offer and may file a separate complaint alleging any separate issues. Further, there is no guarantee that OAH will grant a request to amend the complaint.

[1] A separate order issued May 24, 2017, grants, in part, Student's motion to compel records.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by Student's Case.

ORDER

1. Oakland's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2017030950, Oakland's Case, are vacated.
3. The consolidated matter shall now proceed, on the dates currently scheduled for Student's Case. Namely, mediation shall occur on June 1, 2017, and the prehearing conference shall be held on June 16, 2017, at 10:00 a.m. The due process hearing shall begin on June 22, 2017, at 9:30 a.m., and continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.[2]
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 OAH Case Number 2017050146, Student's Case.

DATE: May 26, 2017

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

[2] Nothing in this Order prevents Student from filing a request for a continuance based on the May 24, 2017 Order requiring Oakland to produce records by June 1, 2017.