

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

FREMONT UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2008070285

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PARENT ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2009020775

AMENDED<sup>1</sup> ORDER GRANTING  
MOTION TO CONSOLIDATE

On July 8, 2008, the District filed a request for due process hearing against Student seeking a determination that a psychoeducational assessment was appropriate. (OAH Case number 2008070285.) That matter has been continued a number of times and is currently set for due process hearing on March 16, 2009.

On March 2, 2009, Student filed a separate request for due process hearing against the District. (OAH Case number 2009020775.) The request raises a number of issues, including the request for an individual educational evaluation at public expense based upon the same psychoeducational assessment at issue in the District filed matter.

On March 2, 2009, Student submitted a request to consolidate both matters. On March 5, 2009, the District filed a response indicating it did not oppose consolidation.

APPLICABLE LAW AND DISCUSSION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education due process proceedings. However, California

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<sup>1</sup> Please note the corrected case caption.

statutes offer, by analogy, a standard appropriate to and used in special education cases. Section 11507.3(a) of the Administrative Procedure Act (Gov. Code, §§ 11370 et seq.) provides that an administrative law judge may order pending administrative proceedings consolidated if they involve “a common question of law or fact ...” The California Code of Civil Procedure Section 1048, subdivision (a), applies the same standard to the consolidation of civil cases. Consolidation is within the inherent power and discretion of the trial court. (*Litmon v. Superior Court* (2004) 123 Cal. App. 4th 1156, 1174; *Sales Dimensions v. Superior Court* (1979) 90 Cal. App. 3d 757, 764.)

A review of the complaints in both matters reveals similar issues and similar contentions. The likelihood that the same witnesses would appear in both matters is great. The consolidation of both matters would promote the efficient use of judicial resources and time by combining into one hearing the similar allegations, witnesses and evidence. Further, the parties agree that consolidation is appropriate. Accordingly, the matters are ordered consolidated.

### ORDER

1. Student’s motion to consolidate Case Numbers 2008070285 and 2009020775 is granted.

2. All dates currently set in the District filed matter (2008070285) are vacated. The dates currently set in the Student filed matter are confirmed and are as follows:

Mediation	April 8, 2009, at 9:30 a.m.
Prehearing Conference	April 13, 2009, at 1:30 p.m.
Due Process Hearing	April 21, 2009

3. The timelines in Case Number 2009020775 shall govern this consolidated matter.

Dated: March 12, 2009

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/s/  
RICHARD M. CLARK  
Administrative Law Judge  
Office of Administrative Hearings