

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CAMBRIAN ELEMENTARY SCHOOL
DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009080375

ORDER GRANTING MOTION TO
CONSOLIDATE

On August 13, 2009, the District filed a Request for Due Process Hearing (District's complaint), naming Student as the respondent. This matter was designated as OAH Case No. 2009080375.

On September 2, 2009, OAH issued an Order of Continuance in Case No. 2009080375, as requested by the parties. The Prehearing Conference is set for September 16, 2009 at 10:00 a.m. The Due Process Hearing is scheduled for September 29, through October 1, 2009.

On August 28, 2009, Student filed a Response to the District's complaint and a cross-complaint on behalf of Student, naming the District as the respondent. This matter was designated as OAH Case No. 200909090.

On September 2, 2009, OAH issued a Scheduling Order in Case No. 200909090. The Prehearing Conference is set for October 14, 2009, and the Due Process Hearing is set for October 22, 2009.

On August 28, 2009, as part of Student's cross-complaint, Student requested consolidation of the District's Case No. 200908037, with Student's cross-complaint, Case No. 200909090.

No objection to the consolidation of cases has been filed, and no request for continuance of the matter has been requested by either party.

DISCUSSION

OAH will generally consolidate matters that involve a common question of law and/or fact and that involve the same parties, and when consolidation of the matters furthers the interests of judicial economy and will obviate potentially inconsistent rulings. While no

statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, California statutes offer, by analogy, a standard appropriate to special education cases. Government Code section 11507.3, subdivision (a), provides that an administrative law judge “may” order pending administrative proceedings consolidated if they involve “a common question of law or fact . . .” California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

The above-titled cases generally involve common questions of law or fact. Each case involves the determination of whether the IEP completed on August 4, 2009, offers Student a free appropriate public education. The District has not opposed Student’s request. In addition, consolidation furthers the interests of judicial economy.

ORDERS

1. Student’s request to consolidate is granted, and the above-titled cases are consolidated.
2. All dates previously set for proceedings for OAH Case No. 2009080375 are vacated.
3. 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 No. 2009090090.
4. The prehearing and due process hearing dates in Case No. 2009090090 shall remain on calendar.

Dated: September 13, 2009

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings