

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL  
DISTRICT,

OAH CASE NO. 2009100130

PARENT on behalf of STUDENT ,

v.

SAN DIEGO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009090843

ORDER GRANTING MOTION TO  
CONSOLIDATE

On September 14, 2009, Parent, on behalf of Student, filed a Request for Due Process Hearing against the San Diego Unified School District. This matter was designated as OAH Case No. 2009090843.

On September 22, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing in OAH Case No. 2009090843. The mediation is scheduled for October 21, 2009, Prehearing Conference for November 2, 2009, at 10:00 a.m., and Due Process Hearing for November 10, 2009.

On September 30, 2009, Student filed a Request for Due Process Hearing against the District. This matter was designated as OAH Case No. 2009100130.

On October 6, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing in OAH Case No. 2009100130. The mediation is scheduled for November 5, 2009, Prehearing Conference for November 30, 2009, at 10:00 a.m., and Due Process Hearing for December 3, 2009.

On September 30, 2009, Student filed a Motion to Consolidate OAH Case No. 2009100130 with OAH Case No. 2009090843. On October 7, 2009, attorney Patrick D. Frost, on behalf of the District, filed response stating that the District did not oppose Student's Motion to Consolidate.

## 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 regarding whether the District assessed Student in all areas of suspected disability and complied with the provisions of Student’s individualized educational program. In addition, consolidation furthers the interests of judicial economy because both cases will involve the same witnesses, evidence and questions of law. Therefore, the matters are ordered consolidated.

## ORDERS

1. Student’s Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All dates previously set for proceedings for OAH Case No. 2009090843 are vacated.
3. The Mediation in the consolidated cases shall be held on November 5, 2009, the Prehearing Conference shall be held on November 30, 2009, at 10:00 a.m., and the Due Process Hearing shall be held on December 3, 2009.
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 No. 2009100130.

Dated: October 8, 2009

/s/

---

PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings