

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT on behalf of STUDENT, vs. SAUGUS UNION SCHOOL DISTRICT,	OAH CASE NO. 2010010864
SAUGUS UNION SCHOOL DISTRICT, vs. PARENT on behalf of STUDENT.	OAH CASE NO. 2010031216 ORDER GRANTING MOTION TO CONSOLIDATE

On January 19, 2010, Parents on behalf of Student filed a Request for Due Process Hearing in Office of Administration Hearing (OAH) case number 2010010864 (First Case), naming Saugus Union School District (District) as respondent. On March 9, 2010, OAH issued a scheduling order in the First Case setting mediation for April 6, 2010, the prehearing conference for April 14, 2010, and the Hearing for April 21, 2010.

On March 16, 2010, District filed a Request for Due Process Hearing in OAH case number 2010031216 (Second Case), naming Student as respondent. With the filing of the Second Case, District filed a Motion to Consolidate the First Case with the Second Case and that both cases proceed on the same timelines. On March 19, 2010, Student filed an opposition to District's motion to consolidate. On March 22, 2010, OAH issued a scheduling order in the Second Case setting mediation for April 6, 2010, the prehearing conference for April 14, 2010, and the Hearing for April 21, 2010.

On March 25, 2010, OAH issued an order granting the parties' joint request to continue the April 6 mediations to 10:00 a.m., April 13, 2010, in both cases. Both the First Case and the Second Case have the same schedule for mediation, prehearing conference, and due process hearing.

Consolidation

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].)

In the First Case, Student asserts in Issue One that District failed to provide DIS counseling services. In Issue Two, Student contends a deterioration and escalation of inappropriate behaviors as a result of District's failure to implement Student's behavior support plan and use positive behavioral intervention strategies.

In its complaint in the Second Case, District contends in Issue Two that its social emotional assessment of March 15, 2010, was appropriate. In Issue Four, District seeks a court order allowing District to refer Student to the Los Angeles County of Mental Health (DMH) without parent's consent.

Here, the First Case and Second Case involve common questions of law or fact. The First Case's Issues One and Two and the Second Case's Issues Two and Four concern Student's appropriate evaluation of Student's behavior and proper services associated with the behavior. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. The scheduled dates presently set in both cases are identical and, thus, the consolidated cases will proceed as scheduled.
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 Number 2010031216 (Second Case).

Dated: April 1, 2010

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings