

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. 2010011273
PARENT on behalf of STUDENT, v. PARENT on behalf of STUDENT.	OAH CASE NO. 2010020276 ORDER GRANTING MOTION TO CONSOLIDATE

On January 27, 2010, Student filed a due process hearing request in OAH case number 2010011273 (First Case) naming District as the sole respondent. The first case alleged various denials of FAPE during the present school year. The issues in the first case were narrowed as reflected in an order granting District's NOI in part.

On February 4, 2010, Student filed a second due process hearing request in OAH case number 2010020276 (Second Case). The Second Case alleges slightly different denials of FAPE, but is also concerned with the current school year.

District filed a motion to consolidate on February 23, 2010. District contends that because the First Case and Second Case involve the current school year, there is a substantial overlap of witnesses and evidence. No opposition was received from Student.

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].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, whether Student's unique needs were addressed in the current school year. The

District is correct that the likelihood of a substantial overlap of witnesses and evidence justifies consolidation.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2010011273 (First Case) are vacated.
3. All dates set in OAH Case Number 2010020276 (Second Case) shall apply to the consolidated cases. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the filing date of the complaint in OAH Case Number 2010020276 (Second Case).

Dated: March 2, 2010

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings