

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

OAH CASE NO. 2010020941

vs.

RAVENSWOOD CITY SCHOOL DISTRICT,

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RAVENSWOOD CITY SCHOOL DISTRICT,

OAH CASE NO. 2010040340

vs.

PARENT on behalf of STUDENT.

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ORDER GRANTING MOTION TO  
CONSOLIDATE

On February 22, 2010, Alexis Casillas, attorney for Student, filed a Due Process Hearing Request<sup>1</sup> (Student's complaint) against the Ravenswood City School District (District). The Office of Administrative Hearings (OAH) designated the matter as OAH Case No. 2010020941. On February 24, 2010, OAH issued a Scheduling Order and Notice of Due Process Hearing and Mediation. The mediation was set for April 1, 2010, prehearing conference was set for April 12, 2010, and due process hearing was set for April 19, 2010.

On March 4, 2010, the parties jointly requested a continuance of the due process hearing, which was granted. The prehearing conference was set for April 7, 2010, and due process hearing was set for April 26-29, 2010. On March 26, 2010, the parties jointly requested another continuance of the due process hearing, which was granted. The prehearing conference is currently set for May 10, 2010, and the due process hearing is set for May 17-20, 2010.

On April 5, 2010, Eugene Whitlock, attorney for District, filed a Request for Due Process Hearing (District's complaint) against Student. This matter was designated as OAH Case No. 2010040340. On April 7, 2010, OAH issued a Scheduling Order and Notice of Due Process Hearing and Mediation. The mediation is currently set for April 21, 2010, the prehearing conference is set for April, 28, 2010, and the due process hearing is set for May 5, 2010.

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

On April 9 2010, Student filed a Motion to Consolidate Student's complaint with District's complaint. OAH did not receive a response to the Motion to Consolidate from District.

### APPLICABLE LAW

OAH will generally consolidate matters that involve a common question of law or fact and that involve the same parties, and when consolidation of the matters furthers the interest 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.

### DISCUSSION

Student's complaint alleges that District denied Student a free appropriate public education (FAPE) because it failed to do the following: 1) meet its obligation under child-find; 2) conduct an adequate initial speech and language evaluation; 3) present a timely assessment plan to parent; 4) convene a timely IEP; 5) provide an adequate evaluation report; 6) provide an appropriate educational plan; 7) provide a procedurally appropriate educational program; 8) provide information that prevented his parent from meaningfully participating in Student's educational programming; and 9) provide notice, preventing his parent from meaningfully participating in his IEP process.

Student requests annual assessments, tutoring, reimbursement for privately obtained evaluations, development of an appropriate IEP and formal review schedule, researched-based instruction, and compensatory services and education. The time period at issue in Student's complaint is from the start of the 2004-2005 school year (SY), through the 2009-2010 SY.

District's complaint raises the sole issue of whether District has offered a Student a FAPE based on the services and placement offered at Student's IEP team meeting of September 11, 2009, and February 3, 2010. District's complaint is based upon parent's alleged refusal to consent to implement the services and placement offered at this IEP.

These cases generally involve common questions of law or fact. Both parties have asserted legal claims regarding Student's services and placement. Both parties will have to present facts pertaining to Student's need for services and placement during the 2009-2010

SY. Consolidation also furthers the interests of judicial economy because both cases involve the same time period, and therefore, will likely involve the same witnesses and the same evidence. Student has asked for services and placement, while District has asked that it offered to provide adequate services and placement. Consolidation will obviate potentially inconsistent rulings. Finally, District has not opposed Student's motion.

#### ORDER

1. District's Motion to Consolidate is granted, and these cases are consolidated.
2. All dates previously set for proceedings for District's case (OAH Case No. 2010040340) 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 Student's case (OAH Case No. 2010020941).
4. The currently set prehearing conference date of May 10, 2010, at 1:30 p.m., and the hearing dates of May 17, 18, 19, and 20, 2010, shall remain on calendar.

Dated: April 15, 2010

/s/

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TROY K. TAIRA  
Administrative Law Judge  
Office of Administrative Hearings