

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

FREMONT UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2010030113

v.

PARENT on behalf of STUDENT,

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PARENT on behalf of STUDENT.

OAH CASE NO. 2010031852

v.

FREMONT UNIFIED SCHOOL DISTRICT,  
AND ALAMEDA COUNTY DEPARTMENT  
OF MENTAL HEALTH

ORDER GRANTING MOTION TO  
CONSOLIDATE

On February 19, 2010, Fremont Unified School District (District) filed a request for Due Process hearing (OAH case number 2010030113) (District's Case). On March 10, 2010, Student filed a Response. On April 2, 2010, the parties filed a Stipulated Amended Due Process Hearing Request on District's Case.

On March 26, 2010, the Student filed a Request for Due Process Hearing (OAH case number 2010031852) (Student's Case). District and Alameda County Mental Health Department (CMH) were named as respondents. On April 8, 2010, District filed a Response. On March 26, Student filed a Motion to Consolidate.

APPLICABLE LAW

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].)

## DISCUSSION

District filed a Request for a Due Process Hearing on February 19, 2010, alleging the District's psycho-educational assessment was appropriate. Student filed a Response denying that allegation. On March 26, 2010 Student filed a Request for Due Process hearing alleging District denied Student FAPE for the 2009-2010 school year (SY 09-10). District filed a Response on April 8, 2010 denying the allegations.

District filed a Stipulated Amended Request for Due Process Hearing under District's Case on April 2, 2010, alleging District's psycho-educational assessment and initial speech and language assessment were appropriate. On April 14, 2010, District filed a stipulation to the Motion to Consolidate. The request raises issues involving common questions of law and fact and involve the same parties in both cases, namely whether the Student was denied FAPE during SY 09-10.

Both cases involve a common question of law or fact. In addition, consolidation furthers the interests of judicial economy because a review of the complaints in both matters reveal similar issues and questions of law. The likelihood that the same witnesses would appear in both matters is great. The consolidation of both matters would promote the efficient use of judicial resources, as well as time and convenience for the parties and their witnesses. Consolidation would save time for all by combining into one hearing the similar allegations, witnesses and evidence. Accordingly, consolidation is granted.

## ORDER

1. Student's Motion to Consolidate is granted.
2. The timelines in OAH Case Number 2010031852 (Student's Case) shall govern these consolidated matters. All dates set in OAH Case Number 2010030113 (District's Case) are vacated. The timelines for the Student's Case are:

Mediation	May 4, 2010, at 9:30 a.m.
Prehearing Conference	May 17, 2010, at 1:30 p.m.
Due Process Hearing	May 24, 2010, at 9:30 a.m.

3. The combined caption on this Order shall be used in all future filings in the consolidated cases.

Dated: April 19, 2010

/s/

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LISA O'BRIEN  
Administrative Law Judge  
Office of Administrative Hearings