

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011050660

v.

ROCKLIN UNIFIED SCHOOL DISTRICT,

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ROCKLIN UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2011030240

v.

PARENT ON BEHALF OF STUDENT.

ORDER DEEMING COMPLAINT  
FILED; CONSOLIDATING CASES; AND  
CONTINUING HEARING

On March 1, 2011, Rocklin Unified School District (District) filed a Request for Due Process Hearing (complaint) in OAH case number 2011030240 (First Case), naming Student as respondent.

On May 17, 2011, the hearing of this matter commenced before Gary A. Geren, Administrative Law Judge, Office of Administrative Hearings (OAH). District was represented by Joseph Spector and Jesse Carriger, Attorneys at Law. Student was represented by his father (Father).

The day before the hearing, May 16, 2011, Father filed a letter with OAH directed to the attention of the undersigned. Father's letter requests OAH issue an order granting affirmative relief, thus, the letter asserts more than mere affirmative defenses to District's complaint. For example, Father alleges that Student was denied a free and appropriate public education; that Father is entitled to reimbursement for various services he provided Student that District allegedly should have provided; that District failed to assess Student's needs appropriately and thoroughly; and that District failed to provide appropriate "summer school" services. Father's letter attempts to raise these issues as "counterclaims"<sup>1</sup> and Father seeks to have these issues adjudicated as part of the hearing of District's case.

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<sup>1</sup> Special education law does not provide for the filing of "counterclaims."

At hearing, the undersigned addressed Father's letter as a preliminary matter. The parties were provided with a tentative ruling stating: Father's letter should be deemed a complaint filed on behalf of Student and it should be assigned a separate OAH case number; the two matters should be consolidated for one hearing; District's case should be continued so that the matters may be heard together; and that a mediation date should be scheduled.

The parties' were allowed oral argument on the issues. A short break was taken and the issues were taken under submission. Thereafter, the undersigned issued rulings, and stated his reasons for them on the record; for the sake of completeness and accuracy of the record, those orders were, as set forth below:

1. Father's letter of May 16, 2011, is deemed Student's complaint filed on May 17, 2011, and it is designated OAH case number 2011050660 (Second Case);<sup>2</sup>
2. Student's complaint and District's complaint shall be consolidated. All dates previously set in District's case, OAH number 2011030240, are vacated and the 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's complaint in OAH case number 2011050660;<sup>3</sup>
3. The hearing of the consolidated matters is continued. A scheduling order setting forth the mediation, prehearing conference and hearing dates for the consolidated matters will be issued separately; and

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<sup>2</sup> Student's complaint shall remain subject to any challenge to the pleading that District may choose to file, for example, a Notice of Insufficiency. This order does no more than recognize that Father has filed a complaint seeking affirmative relief on behalf of Student, which cannot be adjudicated as part of District's case without the matters being consolidated.

<sup>3</sup> Parties indicated that they would like to have the timelines in this matter expedited. To the extent that there is mutual agreement to do so, the parties shall file a written request setting forth their intention to expedite the holding of the mediation and to waive the 30 day resolution period.

4. Any ruling on other matters raised by parties' motions in limine will be deferred.

GOOD CAUSE APPEARING THEREFOR, it is so ordered.

Dated: May 23, 2011

/s/

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GARY GEREN  
Administrative Law Judge  
Office of Administrative Hearings