

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011050697

v.

FULLERTON JOINT UNION HIGH SCHOOL  
DISTRICT,

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FULLERTON JOINT UNION HIGH SCHOOL  
DISTRICT,

OAH CASE NO. 2011050172

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO  
CONSOLIDATE AND DENYING  
MOTION TO CONTINUE

On May 2, 2011, Karen E. Gilyard, attorney representing Fullerton Joint Union High School District (District), filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011050172 (First Case), naming Student.

On May 16, 2011, Matthew M. Pope, attorney representing Student, filed a Request for Due Process Hearing in OAH case number 2011050697 (Second Case), naming District.

With his filing of the Second Case on May 16, 2011, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in the First Case, Case Number 2011050172.

District did not file a response to the motion.

*Consolidation*

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

The above-entitled cases involve the same parties, common questions of law, and the same or similar underlying facts. The issues raised in both cases involve Student’s unique educational needs and the placement location for Student; whether District provided required services to Student; and whether District, ultimately, provided or denied a free and appropriate public education to Student. Evaluating and resolving these issues would most likely involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Further, District filed no opposition to Student’s motion to consolidate. Accordingly, Student’s motion to consolidate is granted.

The Second Case is currently within the 30-day resolution time line. Accordingly, the Second Case is designated as the lead case for purposes of the 45-day time line to render a written decision in this consolidated matter, and all dates set in the First Case are vacated.

Student moves to continue the currently set dates in the First Case. Because the dates in the First Case are vacated, Student’s motion to continue is denied. OAH will issue a scheduling order for the consolidated cases based upon the filing of the Second Case.

#### ORDER

1. Student’s Motion to Consolidate is granted.
2. The Second Case, OAH Case Number 2011050697 is designated as the lead case. 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 2011050697, the Second Case.
3. All dates previously set in OAH Case Number 2011050172, First Case, are vacated.
4. Student’s Motion to Continue is moot and is denied.
5. OAH shall issue a scheduling order consistent with the filing of the Second Case, OAH Case Number 2011050697.

Dated: May 20, 2011

/s/  
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MICHAEL G. BARTH  
Administrative Law Judge  
Office of Administrative Hearings