

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

OAH CASE NOS. 2011060521,
2011060361, 2011060553, 2011070062,
2011071056, 2011071057, and
2011071058

ORDER DENYING MOTION TO
CONSOLIDATE¹

On June 9, 2011, Parent on behalf of Student #1, filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011060521 (First Case) against the San Francisco Unified School District (District).

On June 6, 2010, Parent on behalf of Student #2, filed a Request for Due Process Hearing in OAH case number 2011060361 (Second Case) against the District.

On June 9, 2011, Parent on behalf of Student #3, filed a Request for Due Process Hearing in OAH case number 2011060553 (Third Case) against the District.

On July 1, 2011, Parent on behalf of Student #4, filed a Request for Due Process Hearing in OAH case number 2011070062 (Fourth Case) against the District.

On July 27, 2011, Parent on behalf of Student #5, filed a Request for Due Process Hearing in OAH case number 2011071056 (Fifth Case) against the District.

On July 27, 2011, Parent on behalf of Student #6, filed a Request for Due Process Hearing in OAH case number 2011071057 (Sixth Case) against the District.

On July 27, 2011, Parent on behalf of Student #7, filed a Request for Due Process Hearing in OAH case number 2011071058 (Seventh Case) against the District.

On August 30, 2011, the seven students each filed a Motion to Consolidate the seven cases, which are set for hearing on seven different dates from early-September 2011 through early-October 2011, because of the common legal questions regarding whether the District

¹ The seven cases each involve a different student and different parents.

denied Student a free appropriate public education by proposing to change Student's educational placement without providing prior written notice or holding an individualized education program (IEP) team meeting. The first hearing is for the First Case, which is set for September 7, 2011. On September 2, 2011, the District filed an opposition to the motion.

APPLICABLE LAW and DISCUSSION

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].)

The students' request to consolidate all seven cases because of the overlapping issue in all cases regarding the District's purported failure to renew its contract with the Erikson School, a non-public school, and failure to provide prior written notice or to hold an IEP team meeting before proposing to change the students' educational placements. While, the seven cases involve a common question of law or fact regarding the termination of the master contract with the Erikson School and proposed change in placement, each case involves different parties, different students with different unique needs, separate questions of facts, and possibly different witnesses regarding the District's decision-making process in providing prior written notice or an IEP team meeting, and the reasonableness in its decision-making process. It is not clear judicial economy would be served by consolidation. Accordingly, the motion to consolidate is denied.

ORDER

1. Students' Motions to Consolidate are denied.
2. All dates previously set for the prehearing conferences and due process hearings in the seven matters shall remain as scheduled.

Dated: September 6, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings