

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2011061183
v.	
VICTOR ELEMENTARY SCHOOL DISTRICT.	
VICTOR ELEMENTARY SCHOOL DISTRICT	OAH CASE NO. 2011080637
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE

On July 22, 2011, Parent on behalf of Student (Student) filed an Amended Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011061183 (Student's Case) against the Victor Elementary School District (District).¹

On August 16, 2011, District filed a Request for Due Process Hearing (Complaint) in OAH case number 2011080637 (District's Case) against Student.

Together with its complaint, District filed a Motion to consolidate its Case with the Student's Case (Motion). Student did not file a response to the motion.

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

¹ Student's case was initially filed on June 27, 2011, but was amended on July 22, 2011. Therefore, all applicable timelines were reset, and the 45-day time line for the issuance of a decision was reset as of the date the amended complaint was filed with OAH.

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

In her complaint, Student alleges that District denied her a free appropriate public education (FAPE) by: 1) failing to assess her in all areas of suspected disability from August 2010 to the date of filing Student's Action; (2) failing to provide Student with an appropriate educational program; and (3) failing to provide Parent with a complete copy of the Student's educational records when requested. As a remedy for District's alleged violations, Student is seeking independent educational evaluations in all areas of suspected disability, compensatory education, all of Student's cumulative school records and an instructional assistance aide, among others. In its case, District seeks an order from the OAH permitting it to assess Student for special education services without parental consent.

Consolidation the matters will further the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs, whether District offered Student a FAPE during the 2010-2011 school year, and if not, whether Student is entitled to the remedies requested. The assessment dispute involved in District's case could be evaluated in the context of District's obligation to provide a FAPE to Student. Thus, evaluating and resolving these issues would involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Additionally, Student does not oppose the consolidation.

Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011080637 (District's Case) are vacated.
3. The consolidated matters shall proceed as follows: prehearing conference shall take place on October 12, 2011, at 1:30 p.m., and due process hearing shall take place on October 31 and November 1-3, 2011,² unless otherwise ordered.

² The prehearing conference and due process hearing dates are set pursuant to the OAH's "Order Setting Due Process Hearing and Prehearing Conference," dated August 25, 2011.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the July 22, 2011 date of the filing of the Amended complaint in OAH Case Number 2011061183 (Student's Case).

Dated: August 30, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings