

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. VENTURA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011070073
VENTURA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011040719 ORDER GRANTING MOTION TO CONSOLIDATE

On April 18, 2011, Ventura Unified School District (District) filed a Request for Due Process Hearing, OAH Case Number 2011040719 (First Case), naming Student. On May 9, 2011, the parties jointly filed a Request for Continuance. OAH granted their joint request that day. On June 1, 2011, a prehearing conference (PHC) was held, and the parties were granted an additional continuance. The PHC was continued to July 6, 2011, and, the due process hearing was continued to July 12, 2011 through July 13, 2011.

On July 5, 2011, Student filed a Request for Due Process Hearing, OAH Case Number 2011070073 (Second Case), naming District. The same day, Student and District jointly filed a Stipulation to Consolidate the First and Second Cases on the ground that the cases have common issues of law and fact, as well as similar exhibits and witnesses.

On July 5, 2011, OAH issued a scheduling order in Second Case setting the mediation for August 9, 2011, the PHC for August 22, 2011, and the Due Process hearing for August 30, 2011.

ANALYSIS

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].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, the appropriateness of District's assessments. In First Case District has the burden of proving that its rejection of Student's request for an independent educational evaluation (IEE) was timely, and that District's assessments were appropriate. In Second Case Student has the burden of proving that District's were inappropriate and as a consequence of District's inappropriate assessments, Student was denied a free and appropriate public education (FAPE). Given the allegations in both cases, consolidation furthers the interests of judicial economy because both cases involve the same witnesses and documentary evidence. Accordingly, consolidation is granted.

ORDER

1. The Joint Motion to Consolidate is granted.
2. All dates previously set in First Case, OAH Case Number 2011040719, are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the Request for Due Process Hearing in Second Case, OAH Case Number 2011070073.
4. The following dates in the Second Case shall apply to the consolidated matters: Mediation - August 9, 2011; telephonic PHC - August 22, 2011; and Due Process Hearing - August 30, 2011.
5. If the parties require more than one day for the due process hearing, they need to request a continuance to mutually agreed dates.

IT IS SO ORDERED.

Dated: July 06, 2011

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings