

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MT. DIABLO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011080095
<hr/> MT. DIABLO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011061023 ORDER GRANTING MOTION TO CONSOLIDATE

On June 21, 2011, the Mt. Diablo Unified School District (District) filed a Request for Due Process Hearing (complaint) in Office of Administrative Hearings (OAH) case number 2011061023 (First Case), against Student. OAH set this matter as an expedited due process hearing request and a non-expedited due process hearing request.

On July 29, 2011, Student filed a complaint in OAH case number 2011080095 (Second Case), against the District.

On July 29, 2011, Student filed a Motion to Consolidate the First Case with the Second Case. The District did not submit a response to Student's Motion to Consolidate.

Consolidation

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 adequacy of the District's offers of placement and services during the 2010-2011 school year, and whether Student should be presently placed in a non-public school or a special day class on a general education campus. In addition, consolidation furthers the interests of judicial economy because of the commonality of factual and legal issues and witnesses in the two matters. However, Student's expedited matter shall be heard separately, first, and then the consolidated matter. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011061023 [First Case] are vacated. This consolidated matter shall proceed on the dates scheduled in OAH Case Number 2011080095 [Second Case].¹
3. Student's expedited matter shall be heard first, as set forth in the August 3, 2011 Amended Scheduling Order, and the parties' consolidated matter shall proceed on the non-expedited dates in the Amended Scheduling Order.
4. The 45-day timeline for issuance of the decision in the consolidated non-expedited cases shall be based on the date of the filing of the complaint in OAH Case Number 2011080095 [Second Case].

Dated: August 4, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

¹ Student's motion did not address whether the consolidation would result in a need for further hearing dates. The parties are encouraged to meet and confer regarding the length of the consolidated hearing and file a separate motion to add days, if necessary.