

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

COLTON JOINT UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011081046

ORDER DENYING MOTION TO
CONSOLIDATE

On August 16, 2011, Student filed a Request for Mediation Only in OAH case number 2011080616 (First Case), naming District as the respondent. OAH set August 30, 2011 as the mediation date in that mediation-only matter. The mediation did not occur.

On August 24, 2011, District filed a Request for Due Process Hearing in OAH case number 2011081046 (Second Case), naming Student as the respondent. OAH set September 8, 2011 as the mediation date in that matter and September 22, 2011 as the hearing date.

On August 24, 2011, District filed a Motion to Consolidate the First Case with the Second Case. OAH received no opposition.

On September 13, 2011, District filed a Motion to Continue the dates set in the Second Case. On September 13, 2011, OAH granted that motion and set the mediation in the Second Case for September 21, 2011 and the hearing for November 15-17, 2011.

On September 14, 2011, OAH began the process of closing the file in the First Case because the mediation set for August 30, 2011 had not occurred.

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, although the First Case and Second Case involve common questions of law or fact regarding Student's educational program, consolidation does not further the interests of judicial economy. Formal consolidation is not necessary where one of the filings seeks

mediation only. Unlike a due process hearing, mediation is voluntary and the parties can by mutual agreement discuss any or all of their issues that are pending before OAH, without formal consolidation. Moreover, the First Case is now in the process of being closed because the mediation it sought did not occur, and the mediation set for the Second Case is still on calendar for September 21, 2011. Consolidation in this instance is unnecessary. District's motion to consolidate is denied.

ORDER

District's Motion to Consolidate is denied.

Dated: September 15, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings