

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011090313
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2011080304 ORDER GRANTING MOTION TO CONSOLIDATE

On August 9, 2011, the Santa Monica-Malibu Unified School District (District) filed a Request for Due Process Hearing in OAH case number 2011080304 (First Case), naming Parents on behalf of Student (Student) as respondent. The sole issue of the First Case is whether the initial assessment of Student conducted by the District in May 2011 was appropriate.

On September 12, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011090313 (Second Case), naming the District as respondent. Among other issues, Student alleges that the May 2011 District assessment was not appropriate in that Student was not assessed in all areas of suspected disability, the District failed to find Student eligible for special education under the category of Specific Learning Disability (SLD), and the District failed to provide Student a free appropriate public education (FAPE). Student's issues relate to the May 2011 District-conducted assessment.

On October 12, 2011, Student filed a Motion to Consolidate the First Case with the Second Case. Student requests that the consolidated case proceed on the dates set for OAH Case Number 201108034 set in the August 30, 2011 Order Granting Request for Continuance.

On October 17, 2011, the District filed an opposition to Student's motion. On October 17, 2011, Student filed a reply to the opposition.

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 the May 2011 District assessment. In addition, consolidation furthers the interests of judicial economy because both cases involve much the same evidence and witnesses. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. The consolidated case will proceed pursuant to the August 30, 2011 order in OAH Case Number 2011080304 as follows:
 - i. MEDIATION: October 27, 2011 at 12:00 p.m.;
 - ii. PREHEARING CONFERENCE: November 7, 2011 at 1:30 p.m.;
 - iii. DUE PROCESS HEARING: November 14-17 and 21-23, 2011.
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 complaint in OAH Case Number 2011090313.

Dated: October 20, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings