

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011120452

v.

LUCIA MAR UNIFIED SCHOOL DISTRICT.

LUCIA MAR UNIFIED SCHOOL DISTRICT

OAH CASE NO. 2012030796

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING JOINT MOTION
TO CONSOLIDATE

On December 14, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011120452 (First Case), naming the Lucia Mar Unified School District (District). In pertinent part, Student’s complaint alleges that the District has denied him a free appropriate public education (FAPE) from August 2011 to the present.

On March 19, 2012, the District filed a Request for Due Process Hearing in OAH case number 2012030796 (Second Case), naming Student. The District’s case alleges that it provided a FAPE to Student in the individualized education program offer dated February 3, 2012.

On March 28, 2012, the parties filed a joint motion to consolidate their two cases and to retain the dates set for hearing in Student’s case as the hearing dates for the consolidated matter. The parties state that their cases involve overlapping time periods with regard to the question of whether the District provided a FAPE to Student.

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, whether the District provided a FAPE to Student from February 3, 2012, to the present. The issues presented in the parties' respective complaints will involve much of the same evidence and many of the same witnesses. Consolidation therefore furthers the interests of judicial economy. Accordingly, the parties' joint motion for consolidation is granted.

ORDER

1. The parties' Joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012030796 (Second Case) are vacated.
3. The prehearing conference and the due process hearing in this consolidated matter shall proceed on the dates previously set in Student's case (First Case):
PREHEARING CONFERENCE: MAY 21, 2012, AT 10:00 A.M.
DUE PROCESS HEARING: MAY 29-31, AND JUNE 4-5, 2012,
STARTING AT 1:30 P.M. ON MAY 29 AND JUNE 4, 2012, AND AT 9:30
A.M. ALL OTHER DAYS, UNLESS OTHERWISE ORDERED
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's complaint in OAH Case Number 2011120452 [First Case].

Dated: March 29, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings