

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PANAMA-BUENA VISTA UNION SCHOOL DISTRICT, | OAH CASE NO. 2012010845 |
| PANAMA-BUENA VISTA UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT. | OAH CASE NO. 2011120395 ORDER GRANTING MOTION TO CONSOLIDATE CASES |

On December 8, 2011, District filed a Request for Due Process Hearing in OAH case number 2011120395 (First Case), naming Student.

On January 26, 2012, Student filed a Request for Due Process Hearing in OAH case number 2012010845 (Second Case), naming District. Student concurrently filed a Motion to Consolidate the First Case with the Second Case.

On January 27, 2012 District filed a Notice of Insufficiency as to Student's complaint in the Second Case.

On February 1, 2012 OAH issued an order finding Student's complaint sufficient. On the same date, District filed an objection to consolidation of the cases on the ground that Student's complaint does not contain common issues of law and fact.

On February 3, 2012 Student filed an amended complaint in the Second Case. On February 6, 2012 OAH issued an amended scheduling order in the Second Case setting new dates for mediation, prehearing conference and due process hearing.

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, OAH will construe Student's request for consolidation as applying to Second Case as amended. The First Case and Second Case involve a common question of law or fact, specifically; Student's amended complaint alleges District denied Student a free appropriate public education (FAPE) for a period of years up to and including the 2011-2012 school year. District's complaint contains issues concerning District's provision of a FAPE to Student in the February 16, 2011 and December 5, 2011 individualized educational program (IEP) for the 2011-2012 school year. Because Student is also challenging the provision of FAPE in the 2011-2012 school year, the IEP's at issue in District case are part of Student's case. Consolidation furthers the interests of judicial economy because the issues in both cases will involve some of the same witnesses and evidence. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. The dates set in the PHC Order in OAH Case Number 2011120395 (First Case) issued February 3, 2012 are vacated.
3. The dates set forth in OAH Case Number 2012010845 (Second Case) shall govern the proceedings.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the amended complaint in OAH Case Number 2012010845 (Second Case).

Dated: February 06, 2012

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings