

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

GREENFIELD UNION SCHOOL DISTRICT,

OAH CASE NO. 2012031251

v.

PARENT ON BEHALF OF STUDENT.

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PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012060460

v.

GREENFIELD UNION SCHOOL DISTRICT.

ORDER GRANTING MOTION TO  
CONSOLIDATE

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On March 29, 2012, Greenfield Union School District (District) filed a Request for Due Process Hearing in OAH case number 2012031251 (First Case), naming Parent, on behalf of Student (Student). Pursuant to agreement of the parties, OAH set the First Case for a prehearing conference at 1:30 p.m., July 11, 2012, and a due process hearing for July 24, 25, and 26, 2012.

On June 12, 2012, Student filed a Request for Due Process Hearing in OAH case number 2012060460 (Second Case), naming District. OAH issued a scheduling order in the Second Case setting a mediation date of July 19, 2012, a prehearing conference date of July 30, 2012, and a hearing for August 7, 2012, which would continue day to day.

On June 13, 2012, Student filed a Motion to Consolidate the First Case with the Second Case, requesting that the prehearing conference and hearing dates set in the First Case (to which the parties had already agreed) be assigned to the consolidated cases.

On June 18, 2012, District filed a response to Student's complaint in the Second Case. District did not file an opposition, or otherwise object, to the Student's motion to consolidate.

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. In the First Case, District seeks a finding that its psycho-educational assessment and occupational therapy assessment, which were reviewed at an individualized educational program (IEP) meeting of February 3, 2012, met all legal requirement and were appropriate. Thus, Student is not entitled to independent educational evaluations (IEE), at public expense.

In the Second Case, Student asserts that the District's assessments were inappropriate. Additionally, Student asserts that the District has failed to properly seek due process review of its assessments and, thus, has forfeited the right to obtain a finding that the assessments are appropriate, because of the procedural violation. Thus, Student is entitled to IEEs at the District's expense. Though this assertion could have been made as a defense in the First Case, Student chose to raise the issue in a separate due process filing.

With consolidation, all issues related to the appropriateness of the District's assessments, and Student's entitlement to IEEs at public expense, will be determined in a single due process hearing. Also, since Student requests that the consolidated cases retain the PHC and hearing dates agreed to and ordered in the First Case, timely determination is assured. Accordingly, consolidation is granted.

#### ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012060460 [Second Case] are vacated.
3. These consolidated cases shall retain the dates set in the First Case. That is, the parties shall participate in a telephonic prehearing conference on July 11, 2012, at 1:30 p.m., and the Due Process Hearing in the consolidated cases shall be held on July 24, 25, and 26, 2012, beginning at 9:30 a.m. each day, unless otherwise ordered.
4. OAH Case Number 201203125 [First Case] shall be the lead case and 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 the First Case.

Dated: June 22, 2012

/s/  
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CLIFFORD H WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings