

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012080776

v.

SAN JOSE UNIFIED SCHOOL DISTRICT,

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SAN JOSE UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2012051143

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO  
CONSOLIDATE

On May 29, 2012, the San Jose Unified School District (District) filed a Request for Due Process Hearing (complaint) against Student in Office of Administrative Hearings (OAH) case number 2012051143 (First Case). On June 13, 2012, OAH granted the parties' continuance request for the First Case setting the prehearing conference (PHC) for September 10, 2012, at 1:30 p.m., and the due process hearing (hearing) for September 18, 2012, and continuing day-to-day Monday through Thursday.

On August 23, 2012, Student filed a complaint against the District, in OAH case number 2012080776 (Second Case). On August 27, 2012, OAH issued a scheduling order for the Second Case setting mediation for September 27, 2012, the PHC for October 8, 2012, at 10:00 a.m., and the hearing for October 18, 2012, and continuing day-to-day.

On August 23, 2012, Student filed a Motion to Consolidate the First Case with the Second Case. On August 28, 2012, the District submitted an opposition.

APPLICABLE LAW AND DISCUSSION

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].)

The First Case and Second Case involve a common question of law and fact regarding the appropriateness of the District's January 2012 psychoeducational assessment. While Student's complaint alleges violations that occurred on and after the January 2012 assessment, the central issue in both cases is the adequacy of this assessment that the District used to determine that Student is not eligible for special education services, which Student disputes in his complaint. Without consolidation, there would be a danger of inconsistent rulings. Therefore, Student's Motion to Consolidate is granted as consolidation furthers judicial economy prevents inconsistent rulings.

### ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case number 2012051143 (First Case) are vacated. The consolidated cases shall proceed on the dates scheduled in OAH Case number 2012080776 (Second Case) which are: mediation for September 27, 2012, the PHC for October 8, 2012, at 10:00 a.m., and the hearing for October 18, 2012, and continuing day-to-day.
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 2012080776 (Second Case).

Dated: August 31, 2012

/s/  
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PETER-PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings