

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012110702

v.

HEMET UNIFIED SCHOOL DISTRICT,

HEMET UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2012090499

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING MOTION TO
CONSOLIDATE

On September 14, 2012, the Hemet Unified School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request that named Student. OAH assigned this first District matter case number 2012090499. On November 6, 2012, the District, through counsel, filed with OAH another Due Process Hearing Request that named Student. OAH assigned this second District matter case number 2012110300. On November 9, 2012, counsel for the District filed with OAH a motion to consolidate case numbers 2012090499 and 2012110300, which was granted and the dates in the second case were vacated. The consolidated Due Process hearing was scheduled for December 12, 2012, and for purposes of this Motion, the consolidated District cases will be referred to as the First Case.

On November 21, 2012, Student filed a Request for Due Process Hearing (complaint) in OAH case number 2012110702 (Second Case), naming District. OAH set the Due process Hearing dates for January 16, 2013, continuing day to day.

On November 26, 2012, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in the First Case. District did not file a response to the motion.

On November 27, 2012, District filed a Notice of Insufficiency of Student's complaint in the Second Case. On November 28, 2012, OAH determined the complaint was not sufficiently plead, and allowed Student 14 days to file an amended complaint. Thus, Student has an insufficient complaint in the action he seeks to consolidate.

Consolidation

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, Student's complaint is insufficient, making it impossible to determine if there are common issues of law or fact. More importantly, because all dates in the Second Case were vacated by the order granting the NOI, consolidation is impractical. Thus, the Second Case cannot be consolidated with District's case at this time. The motion to consolidate is denied without prejudice to being renewed if and when Student files a sufficient complaint.

ORDER

1. The Student's Motion to Consolidate OAH case numbers 2012090499/2012110300 and 2012110702 is denied without prejudice. Student may renew the motion when there is a sufficient complaint.
2. The 45-day timeline for issuance of the decision in the consolidated cases remains based on the date of the filing of the complaint in OAH case number 2012090499.

Dated: December 6, 2012

/s/

DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings