

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. MONTEBELLO UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013020654
MONTEBELLO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2013030070 ORDER GRANTING MOTION TO CONSOLIDATE

On February 19, 2013, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 2013020654 (First Case), naming the Montebello Unified School District (District). Student alleges, in part, that the District provided inappropriate initial assessments of Student during the 2012-2013 school year, and requests independent educational evaluations (IEE's) provided by the District.

On March 1, 2013, District filed a Request for Due Process Hearing in OAH case number 2013030070 (Second Case), naming Student. The District alleges its initial assessments of Student during the 2012-2013 school year were appropriate.

Also on March 1, 2013, District filed a Motion to Consolidate the First Case with the Second Case.

On March 4, 2013, Student filed an objection to consolidation on the ground that he requires the IEE's complained for in his request for due process to litigate the remainder of his case.

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, the First Case and Second Case involve a common question of law or fact, specifically, the appropriateness of the District's initial assessments of Student, provided during the 2012-2013 school year. Student does not dispute that a common question of law and fact exist between the First Case and the Second Case. Rather, Student argues he requires an outcome in his favor, District provided IEE's, prior to the First Case being litigated. Student fails to provide any legal authority to support his objection.

Given the facts provided, consolidation furthers the interests of judicial economy because consolidation of the First Case and the Second Case would allow common issues of law and fact to be decided in one proceeding with the same individual witnesses not having to testify in separate hearings. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. The hearing dates in the Scheduling Order issued February 20, 2013, in Case No. 2013020654 (First Case) shall govern: mediation on March 26, Prehearing Conference on April 8, and Due Process Hearing on April 16, 2013, remain as scheduled.
3. The 45-day timeline for issuance of the decision in this consolidated case shall be based on the date of the filing of the complaint in OAH Case No. 2013020654 (First Case).
4. All dates previously set in OAH Case No. N2013030070 (Second Case) are vacated.

Dated: March 11, 2013

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings