

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  STUDENT,  v.  FREMONT UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013051185
FREMONT UNIFIED SCHOOL DISTRICT,  v.  STUDENT.	OAH CASE NO. 2013060389  ORDER GRANTING MOTION TO CONSOLIDATE

On May 30, 2013, Student filed a Request for Due Process Hearing in OAH case number 2013051185 (Student’s Case), naming the Fremont Unified School District (District). Student alleges, generally, that the District has denied him a free appropriate public education over the last two years. Student also alleges that the District failed to timely provide him with independent educational evaluations (IEE’s) upon his parent’s request and that the District failed to timely file for due process to defend its assessments when it declined to fund the IEE’s.

On June 10, 2013, the District filed a Request for Due Process Hearing in OAH case number 2013060389 (District’s Case), naming Student. The District asks for a determination from the Office of Administrative Hearings (OAH) that its assessments of Student are valid and appropriate.

Concurrently with its request for due process, the District filed a motion to consolidate its case with that of Student. The District did not request a continuance.

To date, Student has not filed an opposition to the District’s motion to consolidate or otherwise responded to the motion.

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].)

Here, both Student's request for due process and the District's request for due process raise the issues concerning Student's request for IEE's. Although the legal theories raised are different in that Student contends only that the District failed to meet its statutory obligation of timely providing Student with the IEE's or filing for due process, and the District contends that its assessments are valid and appropriate, the witnesses and evidence presented will be similar in both cases. Consolidation therefore furthers the interests of judicial economy by avoiding the necessity of two hearings on overlapping issues. Accordingly, consolidation is granted.

#### ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013060389 [the District's case] are vacated.
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 2013051185 [Student's Case].
4. Student's case is designated the primary case for these proceedings.

Dated: June 17, 2013

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings