

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: VAL VERDE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014040832
VAL VERDE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014020761 (Primary)
VAL VERDE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014030737 ORDER GRANTING MOTION TO CONSOLIDATE

On February 21, 2014, Val Verde Unified School District (District) filed a Request for Due Process Hearing in OAH case number 2014020761 naming Parent on behalf of Student (Student). On March 19, 2014, District filed a second Request for Due Process Hearing in OAH case number 20140300737, again naming Student. On District's motion, OAH issued an order consolidating the two cases on March 27, 2014, and designating OAH case number 2014020761 the primary case (Consolidated Case). The Consolidated Case is set for hearing on May 27, 2014, with a prehearing conference (PHC) on May 19, 2014.

On April 16, 2014, District filed a third Request for Due Process Hearing in OAH case number 2014040832 (Third Case) and a Motion to Consolidate the Third Case with the Consolidated Case.

Student did not file a response to the motion.

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 issues presented in the Consolidated Case are: 1) Whether District's initial eligibility assessments of Student in the areas of speech, occupational therapy, physical therapy and adaptive physical education conducted in November and December of 2013, were appropriate such that Student is not entitled to independent educational evaluation(s) (IEE) at public expense; and 2) Whether District's December 18, 2013 individualized education program (IEP), as amended on January 29 and February 20, 2014, offered Student a free appropriate public education (FAPE) in the least restrictive environment.

The issue presented in the Third Case is whether the academic portion of District's December 18, 2013, multidisciplinary psycho-educational evaluation was appropriate such that Student is not entitled to an IEE at public expense.

Here, all of the issues presented in the Consolidate Case and Third Case involve common questions of law and fact, specifically, whether assessments conducted in connection with an IEP offered on December 18, 2013 as amended on January 29 and February 20, 2014, were appropriate such that District is not required to fund IEE's in any of the specified areas and whether the IEP following the assessments offers Student a FAPE. Student does not oppose the motion. Given the overlapping nature of the issues of the appropriateness of District's assessments and its offer of a FAPE, consolidation is warranted and will prevent the risk of inconsistent rulings. In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve introduction of the same or similar documents including relevant assessment reports. Accordingly, consolidation is granted. OAH Case Number 2014020761 is designated the primary case.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014040832, the Third Case are vacated.
3. The consolidated cases shall now be heard on the dates currently set for the Consolidated Case, OAH Case No. 2014020761. Namely, the PHC for the consolidated cases shall be held on May 19, 2014, at 10:00 a.m., and the due process hearing shall begin on May 27, 2014, at 1:30 p.m., and continue day to

day, Monday through Thursday, as needed and at the discretion of the Administrative Law Judge.¹

4. 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 2014020761, the Consolidated Case.

DATE: April 24, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings

¹ The parties are encouraged to discuss an agreeable date for mediation and file a written request for mediation with OAH.