BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT,	OAH Case No. 2014120050
HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015030389 ORDER GRANTING DISTRICT'S MOTION TO CONSOLIDATE

On November 19, 2014, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2014120050 (First Case), naming Hacienda La Puente Unified School District. The First Case had a prehearing conference[1] on March 6, 2015, and is scheduled for hearing on March 16, 17, 18 and 19, 2015.

On March 6, 2015, District filed a Request for Due Process Hearing in OAH case number 2015030389 (Second Case), naming Student. The Second Case is set for mediation on March 19, 2015, a prehearing conference on March 23, 2015, and hearing on March 30, 2015.

On March 6, 2015, District filed a Motion to Consolidate the First Case with the Second Case. On March 10, 2015, Student filed notice of non-opposition to District's request to consolidate.

Consolidation

[1] The parties discussed District's motion to consolidate at the prehearing conference but the administrative law judge could not make a ruling because the District had not yet filed its complaint and 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].)

Here, the First Case and Second Case involve common questions of law or fact. The First Case raises two issues: Did the District deny Student a free appropriate public education by failing to meet its child find obligations? Did District deny Student a FAPE when it failed to find Student eligible for special education, including at two individual education program meetings following assessments. In the Second Case, District seeks a determination that its speech-language and occupational therapy assessments were appropriate and that, therefore, the Student's March 3, 2015, request for District to fund two independent education evaluations be denied.

The First Case's issues require a determination that the District's assessments were legally appropriate. In meeting a child find obligation, a district is to assess in all areas of suspected disability. Additionally, in determining eligibility, a district must utilize legally appropriate assessments. Thus, the legal appropriateness of the District's assessments, upon which it relied in meeting its child find obligation and in determining Student's ineligibility, must be determined in the First Case.

The Second Case requires determination of the legal appropriateness of the District's speech-language and occupational therapy assessments, to find whether District must fund independent educational evaluations. Parents requested the independent evaluations in a letter dated March 3, 2015, to District. These same two assessments will be addressed in the First Case, requiring the same testimonial and documentary evidence to address the exact same issue.

Since the two cases involve common questions of fact and law, and consolidation furthers the interests of judicial economy, the motion is granted.

Scheduled Hearing Dates

In the notice of non-opposition, Student requested a short continuance of the hearing and waived mediation. For purposes of this order, Student's request is construed as a request to continue the dates in the First Case, filed by Student. Therefore, the hearing in the First Case is continued to the dates presently scheduled in the Second Case.[2]

[2] Should the parties desire a further continuance of the hearing dates set in the Second Case, they should agree upon continued dates and submit an appropriate stipulation requesting the continuance.

ORDER

1. District's Motion to Consolidate is granted.
2. Student's request for a continuance is granted and the hearing dates set in OAH Case Number 2014120050 [First Case] are continued to the dates presently scheduled in the Second Case.
3. The presently scheduled mediation, prehearing conference and hearing dates, set in the Second Case (OAH Case No. 2015030389), shall apply to these consolidated cases.
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 2014120050 [First Case].
5. All further pleadings in these consolidated cases shall be filed in the First Case.

DATE: March 12, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings