

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015110067

v.

WEST CONTRA COSTA UNIFIED SCHOOL
DISTRICT AND CALIBER BETA
ACADEMY,

WEST CONTRA COSTA UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015080074

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On July 30, 2015, West Contra Costa filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2015080074 (First Case), naming Student. This matter was scheduled for hearing beginning November 17, 2015.

On November 3, 2015, Student filed a Request for Due Process Hearing in OAH Case Number 2015110067 (Second Case) naming West Contra Costa and Caliber Beta Academy. This matter is set for hearing on December 29, 2015.

On November 3, 2015, Student filed a Motion to Consolidate the two matters. On November 6, 2015, West Contra Costa filed a Non-Opposition to the Motion to Consolidate, and Caliber filed an Opposition.

APPLICABLE LAW

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].)

DISCUSSION

Here, both cases involve common questions of law and fact, namely, the appropriateness of West Contra Costa's May 2015 psycho-educational assessment of Student, and whether Student is entitled to an independent evaluation at public expense. Consolidation, therefore, is warranted and will prevent the risk of inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy as many of the same witnesses would be required to testify in each proceeding, and each matter will also involve the introduction of similar documents including West Contra Costa's May 2015 assessment of Student. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by Student's case, the Second Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015080074, the First Case, are vacated.
3. The consolidated matter shall now be heard on the dates set for the Second Case, OAH Case Number 2015110067. Specifically, mediation in the above-captioned case shall be held on December 8, 2015, at 9:30 a.m.; the prehearing conference shall be held on December 21, 2015, at 3:00 p.m.; and the Due Process Hearing in the consolidated cases shall be held on December 29, 2015, at 9:30 a.m.
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 2015110067, the Second Case.

DATE: November 9, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings