

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2016040210

v.

WHITTIER UNION HIGH SCHOOL
DISTRICT,

WHITTIER UNION HIGH SCHOOL
DISTRICT,

OAH Case No. 2016020434

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND SETTING DATES
FOR MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On February 9, 2016, Whittier Union High School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2016020434, naming Student (District's case). District's case sought a determination of the following issues: the legal sufficiency of District's assessments of Student, as well as the legal sufficiency of the November 9, 2015 individualized education program offered to Student by District.¹

On March 31, 2016, Student filed a Request for Due Process Hearing in OAH Case Number 2016040210, naming District (Student's case). Student's case seeks a determination of the following issues: whether Student is entitled to reimbursement for private assessments due to Student's disagreement with District's assessments of Student; and whether District's November 9, 2015 IEP offer denied Student a FAPE.

On March 31, 2016, Student filed a Motion to Consolidate District's case with Student's case.

On April 5, 2016, District filed an objection to consolidation.

¹ At the April 1, 2016 prehearing conference held in District's case, District withdrew its issue regarding the adequacy of the November 9, 2015 IEP.

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, Student’s case and District’s case involve a common question of law or fact, specifically, both Student and District are seeking a determination of the adequacy of District’s assessments of Student². At hearing, largely the same witnesses and exhibits will be required for the ALJ’s determination of the issue. Further, Student’s issue regarding the adequacy of the IEP offer from the November 9, 2015 IEP meeting will not detract from judicial economy when heard together with the evidence regarding the assessments. Accordingly, consolidation is granted.

ORDER

1. Student’s Motion to Consolidate is granted. The consolidated cases shall proceed on the timeline and dates established in the Scheduling Order in Case Number 2016040210.
2. All dates previously set in OAH Case Number 2016020434 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 2016040210.

IT IS SO ORDERED.

DATE: April 8, 2016

DocuSigned by:

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 TED MANN
 Administrative Law Judge
 Office of Administrative Hearings

² In the event that District’s assessments are ruled insufficient, the ALJ will have the discretion to fashion the remedy, which may include the remedy sought by Student in his complaint.