

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ANAHEIM CITY SCHOOL DISTRICT,	OAH Case No. 2016040260
ANAHEIM CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016030907 ORDER GRANTING MOTIONS TO CONSOLIDATE

PROCEDURAL HISTORY

On March 18, 2016, Anaheim City School District filed a request for due process hearing (complaint) with the Office of Administrative Hearings in OAH case number 2016030907 (Anaheim’s Case), naming Parent on behalf of Student. OAH granted Anaheim’s motion to continue the case in an order issued on April 4, 2016.

On April 1, 2016, Student filed a complaint in OAH case number 2016040260 (Student’s case), naming Anaheim.

Anaheim filed a motion to consolidate its case with that of Student on April 5, 2016, based on the similarity of issues between the two cases. On April 7, 2016, Student filed his own motion to consolidate the two cases. In the same document, Student responded to Anaheim’s motion, agreeing that the two cases should be consolidated, but requesting that the dates for the prehearing conference and due process hearing in the consolidated case be set on the dates OAH has scheduled in Student’s case. Anaheim has not filed a response to Student’s motion.

APPLICABLE LAW AND ANALYSIS

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 Anaheim and Student have raised issues concerning whether Student is entitled to independent educational evaluations as requested by Student's mother. Student contends that two of the assessments administered to him by Anaheim did not meet statutory requirements. Anaheim has filed for due process to defend the validity of the two assessments. Both cases will therefore involve similar witnesses, evidence, facts, and law. Consolidation therefore furthers the interests of judicial economy. Accordingly, the parties' motions to consolidate are granted.

Student has requested that the consolidated matter be set on the dates scheduled in his case so that his attorneys have sufficient time to prepare for hearing. Good cause appearing, Student's request is granted. Student's case shall be the primary case. The consolidated matter shall be heard on the dates presently set for Student's case. Student shall present his case first at hearing.

ORDER

1. The parties' separate motions to consolidate are granted.
2. All dates previously set in OAH Case Number 2016030907 [Anaheim's Case] are vacated.
3. Student's motion to have the consolidated matter heard on the dates presently set in his case is granted. 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 2016040260 [Student's Case]. The mediation for the consolidated cases shall take place at 9:30 a.m., on May 5, 2016. The prehearing conference for the consolidated cases shall take place on May 16, 2016, at 3:00 p.m. The due process hearing for the consolidated cases shall take place beginning on May 25, 2016, and will continue day to day, Monday through Thursday, at the discretion of the Administrative Law Judge.
4. Student shall present his case-in-chief first at the hearing.

DATE: April 18, 2016

DocuSigned by:

Darrell Lepkowsky

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DARRELL LEPKOWSKY

Administrative Law Judge

Office of Administrative Hearings