

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT

vs.

ORANGE COUNTY DEPARTMENT OF
EDUCATION and CALIFORNIA
DEPARTMENT OF EDUCATION

OAH CASE NO. 2009020130

ORANGE COUNTY DEPARTMENT OF
EDUCATION

vs.

PARENT on behalf of STUDENT.

OAH CASE NO. 2008120021

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 25, 2008, Orange County Department of Education (OCDE) filed a Request for Due Process Hearing with the Office of Administrative Hearings (OAH), naming Student and the California Department of Education as the respondents.¹ This matter was designated as OAH case number 2008120021. The case is currently set for hearing on March 3 and 4, 2009.

On February 3, 2009, Student's parent on behalf of Student filed a Request for Due Process Hearing, naming OCDE and the California Department of Education as the respondents. This matter was designated as OAH case number 2009020130. On February 4, 2009, OAH issued a scheduling order setting the case for mediation on March 11, 2009, a telephonic prehearing conference on March 27, 2009, and a due process hearing on April 7, 2009.

On February 10, 2009, OCDE filed a Motion to Consolidate OAH case number 2008120021 with OAH case number 2009020130. On February 17, 2009, Student joined in the motion. No opposition to the motion has been filed by any party.

¹ The California Department of Education was dismissed from the action by an OAH order dated February 6, 2009.

DISCUSSION

OAH will generally consolidate matters that involve a common question of law and/or fact and that involve the same parties, and when consolidation of the matters furthers the interests of judicial economy and will obviate potentially inconsistent rulings. While no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, California statutes offer, by analogy, a standard appropriate to special education cases. Government Code section 11507.3, subdivision (a), provides that an administrative law judge “may” order pending administrative proceedings consolidated if they involve “a common question of law or fact” California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

The above-entitled cases generally involve common questions of law or fact. They both involve whether OCDE is the local educational agency responsible for Student’s education and for funding Student’s residential placement.

In its motion, OCDE asked to maintain the hearing dates currently set for this OCDE-filed case (2008120021) in the consolidated cases. That would not be appropriate. The case filed by Student (2009020130) was only recently filed and not all parties have yet appeared in that case. In addition, the 30-day resolution session time mandated by law has not yet run in Student’s case. (20 U.S.C. § 1415(f)(1)(B).)

ORDERS

1. Motion to Consolidate is granted, and the above-entitled cases are consolidated.
2. All dates previously set for proceedings for OAH case number 2008120021 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 2009020130. All dates assigned in the scheduling order dated February 4, 2009, in case number 2009020130, will remain on calendar and will apply to both of the consolidated cases.

Dated: February 20, 2009

/s/

SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings