

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN LUIS COASTAL UNIFIED SCHOOL
DISTRICT,

v.

PARENTS on behalf of STUDENT.

OAH CASE NO. 2009020316

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 18, 2008, the San Luis Coastal Unified School District (District) filed with the Office of Administrative Hearings, Special Education Division (OAH), a Due Process Hearing Request (First Complaint), naming Student as the respondent. OAH has designated the First Complaint as Case No. 2008110557.

In Case No. 2008110557, on January 16, 2009, OAH granted a continuance request and set a prehearing conference for February 23, 2009, and the due process hearing for March 3, 4 and 5, 2009.

On February 9, 2009, the District filed with OAH a Due Process Hearing Request (Second Complaint), again naming Student as the respondent. OAH has designated the Second Complaint as Case No. 2009020316.

On February 17, 2009, OAH issued a Scheduling Order in Case No. 2009020316. The Scheduling Order sets a mediation for March 18, 2009, a prehearing conference for March 30, 2009, and the due process hearing for April 7, 2009.

On the same date that District submitted the Second Complaint, District filed a Motion to Consolidate, seeking to consolidate Case Nos. 2008110557 and 2009020316. On February 11, 2009, the attorney representing Parents and Student filed with OAH a Non-Opposition to the Motion to Consolidate.

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.

Consolidation of the First and Second Complaint is warranted by the foregoing standards. In the First Complaint, Case No. 2008110557, the District seeks an order upholding the appropriateness of a Special Circumstance Instructional Assistance (SCIA) evaluation. In the Second Complaint, Case No. 2009020316, the District seeks an order that a December 2008 IEP offered to Student an appropriate educational program. Both Complaints involve the issue of paraeducator support for Student. Both Complaints will involve the presentation of overlapping documents and witnesses. Consolidation of the cases will result in a savings of time and expense for all parties.

ORDERS

1. The Motion to Consolidate OAH Case Nos. 2008110557 and 2009020316 is granted, and the above-referenced cases are consolidated.
2. All dates previously set for proceedings in OAH Case No. 2008110557 are vacated.
3. All dates previously set for proceedings in OAH Case No. 2009020316 shall remain on calendar: a mediation set for March 18, 2009, a prehearing conference set for March 30, 2009, at 10:00 a.m., and a due process hearing set for April 7, 2009.
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 No. 2009020316.

IT IS SO ORDERED.

Dated: February 19, 2009

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings