

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

HACIENDA LA PUENTE UNIFIED
SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009040154

ORDER GRANTING MOTION TO
CONSOLIDATE

In the Matter of:

PARENT on behalf of STUDENT,

v.

HACIENDA LA PUENTE UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2008120092

On November 29, 2008, Student filed a Request for Due Process Hearing (Student's complaint), naming Hacienda La Puente Unified School District (District) as the respondent. This matter was designated as OAH Case No. N2008120092. On January 7, 2009, the Office of Administrative Hearings (OAH) issued a Scheduling Order and set the matter for hearing to begin on January 23, 2009. On January 7, 2009, pursuant to a joint request from the parties, OAH continued the due process hearing to February 10-13, 2009, and, on February 17, 2009, continued it again to March 2-4, 2009, pursuant to a request from the Student. On March 9, 2009, pursuant to another request from the Student, OAH continued the matter to April 22-24, 2009.

On April 2, 2009, the District filed a Request for Due Process Hearing (District's complaint), naming Student as the respondent. This matter was designated as OAH Case No. N2009040154. On April 8, 2009, OAH issued a Scheduling Order and set the due process hearing for April 28, 2009.

On April 2, 2009, the District filed a Motion to Consolidate OAH Case No. N2008120092 (Student's complaint) with OAH Case No. N2009040154 (District's complaint), and requested that OAH schedule the due process hearing for April 22-24, 2009, the dates currently scheduled in Case No. N2008120092 (Student's complaint). The District has waived participation in mediation. Student has not responded to the District's motion.

The District contends that most of the issues set forth in Student's complaint concern the appropriateness of the District's transition plan offered in Student's June 9, 2008 IEP. Similarly, the many of the issues set forth the District's complaint concern the District's transition plan set forth in Student's March 13 and March 17, 2009 IEPs. Consequently, many, if not all, of the witnesses who will testify regarding the appropriateness of the District's offer of FAPE in the June 9, 2008 IEP will also testify concerning the March 2009 offer of FAPE. These witnesses will also testify as to the appropriateness of the District's assessments, which is an issue also set forth in District's complaint.

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 Student's complaint and the District's complaint involve the same parties, as well as common questions of law or fact as to whether Student was provided an offer of FAPE as it related to Student's transition plans. In addition both matters appear to involve the same potential witnesses, even in connection with the assessment issue set forth in District's complaint. Judicial economy warrants consolidation of these matters. Moreover, Student has not opposed the motion. The District's motion to consolidate is, therefore, granted; however, the due process hearing will proceed in accordance with the dates set forth below.

ORDERS

1. District's Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All dates previously set for proceedings for OAH Case No. N2008120092 are vacated.
3. The Prehearing Conference in the consolidated cases shall be held on April 20, 2009 at 10:00 a.m., and the Due Process Hearing in the consolidated cases shall be held on April 28, 2009 through April 30, 2009. The additional two days are added to the original hearing date of April 28, 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. N2009040154.

Dated: April 10, 2009

/s/

CARLA L. GARRETT
Administrative Law Judge
Office of Administrative Hearings