

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

vs.

SAN RAMON VALLEY UNIFIED SCHOOL  
DISTRICT,

OAH CASE NO. 2009081034

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SAN RAMON VALLEY UNIFIED SCHOOL  
DISTRICT,

vs.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009100125

ORDER GRANTING MOTION TO  
CONSOLIDATE

On August 26, 2009 Student filed a Request for Due Process Hearing (Student's complaint), naming San Ramon Valley Unified School District (District) as the respondent. This matter was designated as OAH Case No. 2009081034.

On September 9, OAH issued a Determination of Insufficiency in OAH Case No. 2009081034. On September 16, 2009 Student filed a First Amended Complaint.

On September 22, 2009 OAH issued a Notice of Mediation for October 22, 2009 at 9:30 a.m., Notice of Telephonic Prehearing Conference November 4, 2009, at 1:30 p.m., and Notice of Due Process Hearing for November 12, 2009 at 9:30 a.m., in OAH Case No. 2009081034.

On October 2, 2009 District filed a Request for Due Process Hearing (District's complaint), naming Student as the respondent. This matter was designated as OAH Case No. 2009100125. District filed concurrently with the complaint a Motion to Consolidate OAH Case Number 2009081034 with OAH Case No. 2009100125. Student has not responded to the motion

October 6, 2009 OAH issued a Notice of Due Process Hearing on November 3, 2006 at 9:30 a.m., Notice of Mediation on October 20, 2009 at 9:30 a.m., and Telephonic Prehearing Conference on October 26, 2009 at 1:30 p.m. , in OAH Case No. 2009100125. On October 15, 2009, District filed a notice canceling the mediation.

## APPLICABLE LAW

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.

Education Code sections 56502, subdivision (f), and 56505, subdivision (f)(1)(C)(3), require that a hearing be conducted and a decision rendered within 45 days of receipt of the complaint unless an extension is granted. Speedy resolution of due process hearings is mandated by law and continuance of due process hearings may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(1)(C)(3).)

## DISCUSSION

Issue Five in Student’s first amended complaint alleges District failed to assess Student in all areas of suspected disability. Student’s proposed remedy to issue five is for OAH to order a District funded independent educational evaluation (IEE). The sole issue in District’s complaint alleges District assessed Student in all areas of suspected disability. District’s proposed remedy is for OAH to order that District’s assessment(s) were appropriate and that Student is not entitled to a District funded IEE. Both cases generally involve common questions of law and fact. Consolidation of these matters furthers the interests of judicial economy because both cases involve the identical parties and require the identical witnesses and documentary evidence. Moreover, Student has not opposed the motion.

## ORDER

1. District’s Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All remaining dates previously set for proceedings for OAH Case No. 2009100125 (second case) are vacated.
3. All dates previously set for proceedings in OAH case No. 2009081034 shall remain as scheduled: Telephonic Prehearing Conference November 4, 2009, at 1:30 p.m., and Due Process Hearing for November 12, 2009 at 9:30 a.m

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 first amended complaint in OAH Case No. 2009081034 (first case).

Dated: October 21, 2009

/s/

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STELLA OWENS-MURRELL  
Administrative Law Judge  
Office of Administrative Hearings