

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

STUDENT,

v.

ORANGE COUNTY DEPARTMENT OF
EDUCATION, IRVINE UNIFIED SCHOOL
DISTRICT AND CALIFORNIA
DEPARTMENT OF EDUCATION,

OAH CASE NO. 2009090943

ORANGE COUNTY DEPARTMENT OF
EDUCATION,

v.

STUDENT.

OAH CASE NO. 2009100565

ORDER GRANTING MOTION TO
CONSOLIDATE

On September 21, 2009, Student filed a Request for Due Process Hearing (Student's complaint) against the Orange County Department of Education (OCDOE), Irvine Unified School District (District) and California Department of Education (CDE). This matter was designated as OAH Case No. 2009090943.

On September 23, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing in OAH Case No. 2009090943. The mediation is scheduled for October 28, 2009, Prehearing Conference for November 4, 2009, at 10:00 a.m., and Due Process Hearing for November 12, 2009.

On October 8, 2009, OCDOE filed a Request for Due Process Hearing (OCDOE's complaint) against Student. This matter was designated as OAH Case No. 2009100565.

On October 13, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing in OAH Case No. 2009100565. The mediation is scheduled for October 27, 2009, Prehearing Conference for November 2, 2009, at 10:00 a.m., and Due Process Hearing for November 10, 2009.

On October 8, 2009, OCDOE filed a Motion to Consolidate OAH Case No. 2009090943 with OAH Case No. 2009100565. Student, the District and CDE have not responded to the motion.

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-titled cases generally involve common questions of law or fact regarding whether the OCDOE is legally responsible to provide Student with a FAPE, or does this responsibility belong to another public agency. In addition, consolidation furthers the interests of judicial economy because both cases will involve the same witnesses, evidence and questions of law. Therefore, the matters are ordered consolidated.

ORDERS

1. OCDOE’s Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All dates previously set for proceedings for OAH Case No. 2009100565 are vacated.
3. The Mediation in the consolidated cases shall be held on October 28, 2009, at the District’s office, the Prehearing Conference shall be held on November 4, 2009, at 10:00 a.m., and the Due Process Hearing shall be held on November 12, 2009, at the District’s office.
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. 2009090943.

Dated: October 20, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings