

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT on behalf of STUDENT, v. PATTERSON JOINT UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2009110397
PATTERSON JOINT UNIFIED SCHOOL DISTRICT, v. PARENT on behalf of STUDENT.	OAH CASE NO. 2009110083 ORDER GRANTING MOTION TO CONSOLIDATE

On November 2, 2009, attorney Peter Sturges, on behalf of Patterson Joint Unified School District (District), filed a Request for Due Process Hearing (District's complaint) against Student. This matter was designated as Office of Administrative Hearings (OAH) Case Number 2009110083.

On November 4, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing and Mediation in OAH Case Number 2009110083. The Prehearing Conference is scheduled for November 30, 2009, at 1:30 p.m., and the Due Process Hearing for December 3, 2009, at 9:30 a.m.

On November 4, 2009, attorney Tamara Loughrey, on behalf of Student, filed a Request for Due Process Hearing (Student's complaint) against District. This matter was designated as OAH Case Number 2009110397.

On November 16, 2009, OAH issued a Scheduling Order and Notice of Due Process Hearing and Mediation in OAH Case Number 2009110397. The Prehearing Conference is scheduled for January 4, 2010, at 11:00 a.m., and the Due Process Hearing for January 7, 2010, at 9:30 a.m. Mediation is set for December 10, 2009, at 9:30 a.m.

On November 10, 2009, Student filed a Motion to Consolidate OAH Case Number 2009110083 with OAH Case No. 2009110397, asserting that both cases involve the same timeframes, issues and witnesses.

On November 16, 2009, District filed a response stating that District does not oppose Student's motion to consolidate the two cases.

DISCUSSION

OAH will generally consolidate matters that involve a common question of law or fact, involve the same parties, 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 involve the same parties, common questions of law, and the same or similar underlying facts. The issues raised in both cases involve Student's unique educational needs; whether District offered required assessments and/or provided required services to Student during the past two school years; and whether District, ultimately, provided or denied a free and appropriate public education to Student. Evaluating and resolving these issues would most likely involve the same evidence and witnesses, and the analyses and resolution of the same questions of law. Further, the District does not oppose Student's motion to consolidate.

ORDERS

1. The Student's Motion to Consolidate is granted. The above-titled cases are consolidated.
2. All dates previously set in OAH Case No. 2009110083 are vacated.
3. The 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. 2009110397.

Dated: November 30, 2009

/s/

ADENIYI 'WALE AYOADE
Administrative Law Judge
Office of Administrative Hearings