

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2009110730

v.

PLEASANTON UNIFIED SCHOOL
DISTRICT,

PLEASANTON UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2010060635

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 23, 2009, Student filed a Request for Due Process Hearing against Pleasanton Unified School District (District). This matter was designated as OAH Case No. 2009110730.

On June 21, 2010, OAH issued an order granting a continuance of the prehearing conference in OAH Case No. 2009110730 (First Case). On June 21, 2010, OAH granted Student's continuance request and scheduled the Prehearing Conference for July 26, 2010 and the Due Process Hearing for August 3, 4 and 5, 2010.

On June 15, 2010, Elizabeth A. Estes, Attorney for District, filed a Request for Due Process Hearing against Student. This matter was designated as OAH Case No. 2010060635 (Second Case).

On June 16, 2010 OAH issued a Scheduling Order and Notice of Due Process Hearing in OAH Case No. 2010060635. The Prehearing Conference is scheduled for July 7, 2010 and the Due Process Hearing for July 12, 2010.

On, June 15, 2010, District filed a Motion to Consolidate OAH Case No. 2009110730 with OAH Case No. 2010060635.

On June 17, 2010, at the prehearing conference in OAH Case No. 2009110730, Parent was advised of the District's Motion to Consolidate and was given until the close of business on June 23, 2010, to file a written opposition to District's motion. Student did not file a response to the motion.

Consolidation

OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. While no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special educations, 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.

Here, the First Case and Second Case involve a common question of law or fact, specifically, Student challenges the appropriateness of the District’s offers of placement at Vintage Hills elementary school in Student’s May 2008 and May 2009 individualized education program’s (IEP). District’s complaint is asking for a finding that the offer of placement at Vintage Hills elementary school in Student’s 2010 IEP is appropriate. Student has not opposed the motion. 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.

ORDER

1. District’s Motion to Consolidate is granted.
2. All dates previously set for proceedings in OAH Case Number 2010060635 are vacated.
3. The Prehearing Conference shall be held on July 26, 2010, at 10:00 a.m., and the Due Process Hearing shall be held on August 3, 4 and 5, 2010, 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 Number 2009110730.

Dated: July 1, 2010

/s/

LISA O'BRIEN
Administrative Law Judge
Office of Administrative Hearings