

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. RIPON UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2010080006 ORDER GRANTING LEAVE TO AMEND DUE PROCESS COMPLAINT
RIPON UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2010090779 ORDER GRANTING MOTION TO CONSOLIDATE

On August 2, 2010, Parent on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 2010080006 (First Case), naming Ripon Unified School District (District).

On September 22, 2010, the District filed a Request for Due Process Hearing in OAH case number 2010090779 (Second Case), naming Student.

On September 22, 2010, the District filed a Motion to Consolidate the First Case with the Second Case. On September 24, 2010, Student filed a Notice of Non-opposition to the District's Motion to Consolidate the two matters.

On September 24, 2010, Student filed a Motion Requesting Leave to Amend His Due Process Complaint (amending first case). On September 27, 2010, the District filed a Notice of Non-opposition to Student's Request to Amend.

APPLICATION OF LAW

Amendment

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C.

§1415(c)(2)(E)(i)(II).¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, 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. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Student's Request to Amend is timely filed and unopposed by the District. The motion to amend is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

Regarding consolidation, the First Case and Second Case involve a common question of law and fact, specifically, both complaints relate to the District's offer of FAPE for the 2010-2011 school year. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because both complaints are substantially similar and involve the same witnesses. Accordingly, consolidation is granted.

ORDER

1. Student's Request to Amend the First Complaint, OAH Case Number 2010080006, is granted and is deemed filed September 29, 2010.
2. The District's Motion to Consolidate the First and Second cases is granted. Student's case OAH Case Number 2010080006 shall govern.
3. All dates previously set in both cases are vacated. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

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 amended complaint in OAH Case Number 2010080006 (September 29, 2010).

Dated: September 29, 2010

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings