

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

ALTA LOMA SCHOOL DISTRICT AND
WEST END SPECIAL EDUCATION
LOCAL PLAN AREA,

v.

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2011040395

PARENTS ON BEHALF OF STUDENT,

v.

ALTA LOMA SCHOOL DISTRICT AND
WEST END SPECIAL EDUCATION
LOCAL PLAN AREA.

OAH CASE NO. 2011050106

ORDER GRANTING PARTIES'
REQUEST TO CONSOLIDATE, AND
SETTING DATES FOR MEDIATION,
PREHEARING CONFERENCE AND
HEARING

On April 12, 2011, the Alta Loma School District (District) and the West End SELPA (SELPA) filed a Request for Due Process Hearing in OAH case number 2011040395 (First Case) naming Student.

On April 29, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011050106 (Second Case), naming both District and SELPA.

On April 29, 2011, parties filed a joint stipulation to consolidate the First Case with the Second Case, and to continue the due process hearing dates set in the consolidated matter to the dates parties have agreed to.

APPLICABLE LAW

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 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); Code of Civ. Proc., §

1048, subd. (a).) The California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

DISCUSSION

In the First Case, District and SELPA contend that the September 16, 2010 and February 10, 2011 individualized educational programs (IEPs) offer of placement, supports, and services to Student constitute a free appropriate public education (FAPE), and that OAH should make a finding that District's offer is appropriate.

In the Second Case, Student alleges that District and SELPA denied him free appropriate public education (FAPE) during the current and past school years (SYs). Student further alleges various procedural violations, including those relating to parents' right to meaningfully participate the IEP process, whether District appropriately assessed Student in all areas of suspected disability and whether District made appropriate IEP offers, among others.

Both parties stipulate that the cases involve common questions of law, the same parties and the same or similar underlying facts, and thus both request consolidation of the two cases.

The issues raised in both cases involve Student's unique educational needs; whether District offered required assessments or provided required services to Student during the current and past SYs, and whether District, ultimately, provided or denied Student a FAPE during those years. Evaluating and resolving these issues would involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Therefore, consolidating the cases will promote judicial economy. Accordingly, consolidation is granted.

ORDER

1. Parties' request to consolidate the two cases is granted, and the above-titled cases are consolidated.
2. 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 2011050106 (Second Case), and the dates in OAH Case Number 2011040395 are vacated.
3. As requested by the parties in their joint stipulation dated May 2, 2011, all dates previously set in OAH Case No. 2011050106 (Second Case) are vacated, and Mediation, Prehearing Conference and Due Process Hearing in the consolidated cases are set as follows:

Mediation: June 23, 2011, at 9:30 a.m.
Prehearing Conference: August 15, 2011, at 1:30 p.m.
Due Process Hearing: August 23 – 25, 2011, at 9:30 a.m.¹

Dated: May 13, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹ The parties originally requested the due process hearing be held on August 23 through 26, 2011. At this time OAH will not set August 26, 2011, a Friday, as a hearing date. At the prehearing conference of August 15, 2011, the parties may request that the presiding ALJ add August 26, 2011, as a day of hearing.