

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PANAMA-BUENA VISTA UNION
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011050739

PARENT ON BEHALF OF STUDENT,

v.

PANAMA-BUENA VISTA UNION
SCHOOL DISTRICT.

OAH CASE NO. 2011040320

ORDER GRANTING MOTION TO
CONSOLIDATE

On April 7, 2011, Student filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011040320 (First Case) against the Panama-Buena Vista Union School District (District).

On May 17, 2011, the District filed a Request for Due Process Hearing in OAH case number 2011050739 (Second Case) against Student.

On May 17, 2011, the District filed a Motion to Consolidate the First Case with the Second Case.

On May 17, 2011, Student filed an objection to consolidation on the ground that common questions of law and fact do not exist, and if OAH granted the District's motion for OAH to maintain the prehearing and hearing dates in OAH case number 2011040320, presently set for May 25, 2011 and June 1, 2011, respectively.

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].)

Here, the First Case and Second Case involve a common question of law or fact, specifically whether the District offered Student an individualized education program (IEP) that addressed his unique needs during the 2010-2011 school year. Consolidation furthers the interests of judicial economy because whether the District appropriately assessed Student, as contended by the District in the Second Case, will assist in determining in the First Case whether the District's IEP adequately addressed Student's unique needs.

Student requested that if OAH granted the District's motion to consolidate that OAH maintain the hearing dates in OAH case number 2011040320. However, because the parties are still in the dispute resolution process to determine if Student is homeless pursuant to the McKinley-Vento Act, as discussed in the May 20, 2011 order granting Student's motion to limit issues, which may resolve certain issues in the consolidated matter, it is appropriate to proceed with the later dates in OAH case number 2011050739. Accordingly, consolidation is granted and the consolidated matter shall proceed on the dates in OAH case number 2011050739.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2011040320 are vacated. The matter shall proceed on the dates in case number 2011050739.
3. 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 2011050739.

Dated: May 20, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings