

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2011060266
v.	
BERKELEY UNIFIED SCHOOL DISTRICT,	
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BERKELEY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011050280
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE

On May 3, 2011, Berkeley Unified School District (District) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011050280 (First Case), naming Student.

On June 6, 2011, Parent, on behalf of Student, filed a Request for Due Process Hearing in OAH case number 2011060266 (Second Case), naming District.

On June 16, 2011, the parties jointly filed a Motion to Consolidate the First Case with the Second Case.

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; both raise issues of whether District's March 2011 assessments were appropriate and whether District offered student a free appropriate public education. Both parties stipulated to the consolidation. In addition, consolidation furthers the interests of judicial

economy because both cases will involve the testimony of the same witnesses and the same documentary evidence. The issues in both cases can be resolved in a single proceeding. Accordingly, consolidation is granted.

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in District's case, OAH Case Number 2011050280 (First Case), are vacated.
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 Student's case, OAH Case Number 2011060266 (Second Case).

Dated: June 17, 2011

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings