

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011070509
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011030815 ORDER GRANTING MOTION TO CONSOLIDATE AND VACATING ALL DATES IN OAH CASE NO. 2011030815

On March 17, 2011, the Capistrano Unified School District (District) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011030815 (District's Case) against Student.

On July 14, 2011, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 2011070509 (Student's Case) against District.

On July 21, 2011, District filed a Motion to Consolidate District's Case with the Student's Case. Student did not file a response to the motion.

APPLICABLE LAW AND DISCUSSION

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, District's case involves the question of whether its individualized educational program offer of September 28, 2010, for the school year (SY) 2010-2011, constitutes a free appropriate public education (FAPE) in the least restrictive environment for Student. Student's case involves the question of whether District should be ordered to reimburse Parents for the costs of placing Student in a private school during the SY 2010-2011. Thus, both cases involve a common question of law or fact, the same parties and the same or similar underlying facts.

Student has not opposed the motion. In addition, consolidation furthers the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs and whether District offered Student a FAPE during the SY 2010-2011, and if not, whether Student is entitled to reimbursement for the costs of his private placement. 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. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011030815 (District's Case) are vacated.
3. The consolidated matters shall proceed as follows: mediation shall take place on August 16, 2011; prehearing conference shall take place on August 31, 2011, at 1:30 p.m., and, due process hearing shall take place on September 7, 2011, unless otherwise ordered.
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 2011070509 (Student's Case).

Dated: July 27, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings