

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011080092
TEMECULA VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011090667 ORDER GRANTING MOTION TO CONSOLIDATE

On August 2, 2011, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (Complaint) in the Office of Administrative Hearings (OAH) Case Number 2011080092 (Student's Case) against the Temecula Valley Unified School District (District). On September 16, 2011, Student filed an amended complaint.

On September 14, 2011, District filed a Request for Due Process Hearing in OAH Case Number 2011090667 (District's Case) against Student.

On September 27, 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

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 case involves the questions of whether: 1) District fully and appropriately assessed her in all areas of suspected disability, particularly, anxiety and mental health needs, during the spring of 2011, so that District could make an offer of a free appropriate public education (FAPE) to her during the 2011-2012 school year (SY 2011-2012); and 2) whether District failed to offer her a FAPE for the SY 2011-2012 because the individualized education program (IEP) team failed to make a timely placement offer, and further because the offer of placement and services subsequently made did not meet her unique needs. In its case, District also raises the question of whether its IEP offer of August 2, 2011 provides Student with a FAPE so that District may implement the IEP.

Therefore, both cases involve the same SY 2011-2011, the common question of law and fact relating to District's offer of FAPE to Student, the process leading to the development of Student IEP and the appropriateness of District's offer of FAPE to her. Furthermore, 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 2011-2012, and if not, whether District should be ordered to provide additional assessments and convene an IEP meeting following the assessments, among others. 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 2011090667 (District's Case) are vacated.
3. The consolidated matters shall proceed as follows: mediation shall take place on October 13, 2011; prehearing conference shall take place on November 2, 2011, at 1:30 p.m., and, due process hearing shall take place on November 10, 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 2011080092 (Student's Case).

Dated: October 6, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings