

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  OCEAN VIEW ELEMENTARY SCHOOL DISTRICT,	OAH CASE NO. 2011080856 (Primary Case)
OCEAN VIEW ELEMENTARY SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011090503 (Secondary Case)  ORDER GRANTING MOTION TO CONSOLIDATE

On August 23, 2011, (Student) filed a Request for Due Process Hearing in OAH case number 2011080856 (First Case), naming Ocean View Elementary School District (District). On August 31, 2011, District filed a Partial Motion to Dismiss. On September 6, 2011, OAH issued an order dismissing four issues and granting Student 14 days to file an amended complaint (Order to Dismiss).

On September 15, 2011, District filed a Request for Due Process Hearing in OAH case number 2011090503 (Second Case), naming Student. On September 16, 2011, OAH issued a scheduling order.

Within 14 days of the Order to Dismiss, on September 20, 2011 Student filed the First Amended Complaint in the First Case. That same day, OAH issued a scheduling order setting the matter: mediation on November 2, 2011 at 9:30 a.m.; prehearing conference on November 14, 2011 at 1:30 p.m.; and a due process hearing on November 17, 2011.

On September 20, 2011, Student filed a Motion to Consolidate Due Process Hearings. On September 23, 2011, District filed a Non-Opposition to Student's Motion to Consolidate. Neither party requested a continuance in the First Case or the Second Case.

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, Student's Case and District's Case involve common questions of law and fact. Specifically, Student's Amended Complaint and District's Complaint involve the appropriateness of District's offer of FAPE at the June 9, 2011 and July 7, 2011 IEPs. District is not opposed to consolidation. Accordingly, the matters will be consolidated in the interest of judicial economy.

#### ORDER

1. Student's Motion to Consolidate is granted. Student's Case, OAH Case Number 2011080856 is consolidated with District's Case, OAH Case Number 2011090503. Student's Case shall be deemed the "primary" case. The due date for a decision in the consolidated matters will be calculated based on the 45-day timeline for issuance of the decision in Student's Case, OAH Case Number 2011080856.

2. All dates previously set in District's Case, OAH Case Number 2011090503 are vacated.

3. All dates previously set in Student's Case, OAH Case Number 2011080856, apply to the consolidated matters as follows: mediation on November 2, 2011 at 9:30 a.m.; prehearing conference on November 14, 2011 at 1:30 p.m.; and due process hearing on November 17, 2011.

4. If either party wishes to continue this consolidated case, the parties shall meet and confer regarding new hearing dates as is required by OAH, and shall file a written motion.

Dated: September 26, 2011

/s/

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CLARA L. SLIFKIN  
Administrative Law Judge  
Office of Administrative Hearings