

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011110394
LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012040399 ORDER GRANTING STUDENT'S MOTION TO AMEND; ORDER GRANTING MOTION TO CONSOLIDATE

On November 9, 2011, Parents on behalf of Student filed a Request for Mediation and Due Process Hearing (Student's complaint) in OAH case number 2012040399 (First Case), naming District as respondent. On April 20, 2012 District filed a Request for Due Process Hearing in OAH case number 2012040399 (Second Case), naming Student as respondent. On April 25, 2012, Student filed a motion to amend Student's complaint in the First Case and concurrently filed a Motion to Consolidate the First Case with the Second Case. On April 27, 2012, District filed a notice of non-opposition to Student's motions to amend and to consolidate. This Order addresses both the motion to amend and the motion to consolidate, which are granted.

Motion to Amend

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(f)(1)(B).)

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

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 District offered student a free appropriate public education in Student's March 21, 2012 individualized education plan. District does not oppose consolidation. In addition, consolidation furthers the interests of judicial economy because it avoids duplicative testimony and potential inconsistent results. Accordingly, consolidation is granted. The dates set for District's case are vacated and shall be reset in accordance with this Order.

ORDER

1. Student's motion to amend is granted. Student's amended complaint is deemed filed on April 30, 2012.
2. Student's Motion to Consolidate is granted.
3. All dates previously set in OAH Case Number 2011110394 [First Case] are vacated. All dates set in OAH Case Number 2012040399 [Second Case] are vacated.
4. OAH shall issue a new scheduling order in the consolidated cases setting mediation and hearing dates in accordance with this Order.
5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the amended complaint in OAH Case Number 2011110394 [First Case].

Dated: April 30, 2012

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings