

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN LUIS COASTAL UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011110858

ORDER GRANTING MOTION TO
CONSOLIDATE

On September 6, 2011, District filed a Request for Due Process Hearing in OAH case number 2011090132 (District's Case), naming Student as the respondent. The sole issue alleged was whether District's 2011 psycho-educational assessment of Student was appropriate, such that District need not provide an IEE at public expense. On September 26, 2011, the parties' joint request for a continuance of District's Case was granted.

On November 22, 2011, Student filed a Request for Due Process Hearing in this matter, OAH case number 2011110858 (Student's Case), naming District as the respondent. Student alleges that the psycho-educational assessment that is the subject of District's Case was not appropriately conducted, such that Student is entitled to an IEE. Further, Student alleges that he should have been found eligible for special education had the assessment been properly conducted and should have received special education services from District for the two years prior to the date of filing. Among other relief, Student seeks reimbursement of a parent-funded IEE and tuition reimbursement.

District opposed consolidation on November 22, 2012, on the ground that it generally had a right to a quick hearing on its case, and that there was insufficient relationship between Student's issues and District's issue. Student filed a reply on November 28, 2012, contending that there was sufficient overlap of the issues, particularly when the hearing on District's case would likely be longer than one day.

ANALYSIS

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 and Student's Case involve a common question of law and fact, specifically, whether District's psycho-educational was properly conducted. Although District argues it would not advance concerns for judicial economy to hold consolidated hearings because its issue is limited, District fails to address that the same witnesses that will be necessary on the assessment issue are also necessary for Student's issue of whether the IEP team meeting held to review the assessment should have found Student eligible for special education. Thus, judicial economy and preserving the resources of both parties are served by consolidation.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011090132 (District's Case) are vacated.
3. The consolidated matters shall proceed on the dates currently set in OAH Case number 2011110858 (Student's Case), which shall be designated as the primary case.
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 Student's Case, OAH Case Number 2011110858.

Dated: December 01, 2011

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings