0BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PARAMOUNT UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011120517
PARAMOUNT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011120421 ORDER GRANTING MOTION TO CONSOLIDATE

On December 13, 2011, Paramount Unified School District (District) filed a Request for Due Process Hearing (District's complaint) in OAH case number 2011120421 (First Case), naming Student (Student) as respondent.

On December 16, 2011, Parents on behalf of Student filed a Request for Due Process Hearing (Student's complaint) in OAH case number 2011120517 (Second Case), naming District as respondent. Student concurrently filed a motion to consolidate the First Case with the Second Case.

On December 19, 2011, OAH issued a scheduling order in the Second Case, setting: mediation for 9:30 a.m., January 24, 2012; prehearing conference for 10:00 a.m., February 6, 2012; and due process hearing for 9:30 a.m., February 13, 2012.

On December 21, 2011, District filed an objection to consolidation on the ground that the matters do not involve common issues of law and fact and that judicial economy would not be served by consolidation

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].)

District states that its complaint merely seeks a determination of the legal appropriateness of two assessments, in the areas of behavior and speech and language, which the IEP team reviewed at the September 27, 2011, meeting. Student disagreed with the District's assessments and requested District to pay for independent evaluations (IEEs). District therefore filed a due process, contending that it is not required to fund Student's IEEs.

Student's complaint asserts that District did not offer or provide Student with a free appropriate public education (FAPE) because of various procedural and substantive failures by the District related to timely assessment, behavior support, one-to-one aide, in-home applied behavior analysis therapy, and implementation of agreed upon services. District asserts that the issues in District's complaint are not included in Student's complaint, objecting that consolidation would merely delay and obfuscate a determination on District's narrow issues. Thus, District argues that there are no common questions of law and fact whereby consolidation would benefit judicial economy and consistency of ruling.

However, the Student alleges supporting facts related to the appropriateness and sufficiency of the assessments utilized by the District in formulating its offer of FAPE. Both cases will look at the District assessments and elicit testimony from the District's evaluators. Both cases will include testimony from Student's expert witnesses who would be testifying as to the appropriateness of the District assessments, and the conclusions therein, relative to Student's unique needs. If the two cases are heard separately, witnesses will be testifying twice about the same issues.

Thus, the First Case and Second Case are consolidated because they involve common questions of law and fact, which also furthers the interests of judicial economy by saving time and preventing inconsistent rulings.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011120421 [First Case] are vacated.
3. 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 2011120517 [Second Case].

4. The dates presently scheduled in the Second Case, OAH Case Number 2011120517, shall apply to these consolidated cases

Dated: December 23, 2011

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings