

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2012010118
v.	
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT.	
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PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	OAH CASE NO. 2011110619
v.	
PARENT ON BEHALF OF STUDENT	ORDER GRANTING MOTIONS TO CONSOLIDATE CASES AND AMEND COMPLAINT

On November 16, 2011, the Panama-Buena Vista Union School District (District) filed a Request for Due Process Hearing (complaint) in OAH case number 2011110619 (First Case), naming Parent on behalf of Student. On December 19, 2011, the District filed a First Amended Complaint.

On January 5, 2012, Student filed a Complaint in OAH case number 2012010118 (Second Case), naming the District. On January 13, 2012, Student filed a First Amended Complaint correcting an error in the caption of his original complaint, deemed to be a motion to amend.

On January 11, 2012, Student filed a Motion to Consolidate the First Case with the Second Case. On January 13, 2012, the District filed a letter stating its non-opposition to the motion.

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 common questions of law or fact. The District's complaint in the First Case puts at issue whether the District properly implemented Student's Behavior Support Plan (BSP) during the first 30 days after his transfer into the District on or about December 16, 2010; and whether the District offered Student an appropriate BSP at an individualized education program team meeting on November 8, 2011. Student's complaint in the Second Case addresses both those issues and three others that relate to the behavior support plan or plans in dispute. Thus consolidation will serve judicial economy and conserve the resources of the parties and the Office of Administrative Hearings by resolving the related disputes in one proceeding and will prevent the possibility of inconsistent rulings.

The District does not oppose consolidation.

Amendment of Complaint

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. (§1415(f)(1)(B).)

Here Student filed a proposed First Amended Complaint that simply corrected an error in the caption of the original complaint. That filing is deemed a motion to amend the complaint. The motion was timely filed and is not opposed, and will be granted.

The First Amended Complaint contains one allegation concerning the suspension of Student that requires the setting of mediation, prehearing conference and due process dates on an expedited schedule for that allegation. The District's complaint does not contain expedited issues. Therefore the District's complaint is consolidated with the non-expedited portion of Student's complaint. The calendaring of expedited mediation, prehearing conference and due process dates for Student's allegation of suspension will not affect the schedule on which the District's consolidated case will be heard.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011110619 are vacated.

3. Student's filing of an amended complaint is deemed a motion for leave to file an amended complaint, and the motion is granted. Student's amended complaint will be deemed filed on the date of this Order.
4. This Order of Consolidation does not affect the expedited portion of Student's first amended complaint.
5. The 45-day timeline for issuance of the decision on the District's complaint and on the nonexpedited issues in Student's first amended complaint in the consolidated cases shall be based on the date of the filing of Student's amended complaint in OAH Case Number 2012010118. OAH will issue a new scheduling order.

Dated: January 17, 2012

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings