

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

CORONADO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012030133

CORONADO UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012020760

ORDERS: GRANTING MOTION TO
AMEND COMPLAINT; GRANTING
MOTION TO CONSOLIDATE;
DENYING NOTICE OF
INSUFFICIENCY AS MOOT

On February 17, 2012, the Coronado Unified School District (District) filed a request for due process (complaint) naming Student. The Office of Administrative Hearings (OAH) designated this case 2012020760 (First Case). On March 5, 2012, Student filed a complaint in case number 2012030122 naming the District (Second Case). Student filed a motion to consolidate his case with that of the District on March 6, 2012.

The District filed a Notice of Insufficiency as to Student's case on March 7, 2012. Student then filed a First Amended Complaint on March 8, 2012. Immediately thereafter on March 8, 2012, the District filed a notice of non-opposition to Student's motion to consolidate. In its non-opposition, the District specifically states that it does not oppose consolidating its case with Student's first amended Complaint, filed on March 8, 2012.

Amended 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).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

In this case, the District constructively indicated its non-opposition to Student's first amended complaint by filing its non-opposition to the consolidation of its complaint with Student's amended complaint. Student's 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 common questions of law and fact regarding whether the District's assessment process was appropriate and whether it correctly found that Student was not eligible for special education and related services. Without consolidation, there would be a danger of inconsistent rulings. Therefore, Student's Motion to Consolidate is granted as consolidation furthers judicial economy and prevents inconsistent rulings.

ORDER

1. Student's motion to amend his complaint is granted.
2. Student's motion to consolidate is granted.
3. All dates previously set in OAH Case numbers 2012020760 (First Case) and 2012030133 (Second Case) are vacated. Since the consolidation is based on the filing of Student's amended complaint, OAH will issue a new scheduling order with new dates. The 45-day timeline for the filing of a decision will be based upon Student's amended complaint in the Second Case.

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

4. Based upon this order granting Student's motion to amend his complaint, as unopposed by the District, the District's notice of insufficiency as to Student's original complaint is moot, and is denied on that basis.

Dated: March 9, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings