

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

EDUCATIONAL REPRESENTATIVE ON  
BEHALF OF STUDENT,

v.

CALIFORNIA DEPARTMENT OF  
EDUCATION,

OAH CASE NO. 2012041056

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EDUCATIONAL REPRESENTATIVE ON  
BEHALF OF STUDENT,

v.

WOODLAND JOINT UNIFIED SCHOOL  
DISTRICT AND COUNTY OF  
SACRAMENTO, CHILD PROTECTIVE  
SERVICES.

OAH CASE NO. 2012080378

ORDER GRANTING MOTION TO  
CONSOLIDATE

On April 25, 2012, Student filed a Request for Due Process Hearing (complaint) against the California Department of Education (CDE) in Office of Administrative Hearings (OAH) case number 2012041056 (First Case).<sup>1</sup> The First Case is scheduled for the prehearing conference (PHC) for October 3, 2012, at 10:00 a.m., and the due process hearing (hearing) for October 9, 2012, and continuing day-to-day.

On August 14, 2012, Student filed a complaint against the Woodland Joint Unified School District (District) and County of Sacramento, Child Protective Services (CPS), in OAH case number 2012080378 (Second Case). On August 15, 2012, OAH issued a scheduling order for the Second Case, setting mediation for September 20, 2012, the PHC for October 3, 2012, at 10:00 a.m., and the hearing for October 9, 2012, and continuing day-to-day.

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<sup>1</sup> Student's complaint also named several other school districts, all of whom have resolved their matters with Student.

On August 27, 2012, Student filed a Motion to Consolidate the First Case with the Second Case. On August 30, 2012, the District filed an opposition to Student's motion to consolidate. On August 30, 2012, CDE joined the District's opposition. CPS did not submit a response.

## 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].)

The First Case and Second Case involve a common question of law and fact regarding the ultimate public agency responsible for ensuring the provision of a FAPE to a foster child, like Student, who due to multiple foster care placements moves between multiple school districts, or fails to assure compliance with the Individuals with Disability Education Improvement Act regarding these foster child students. Without consolidation, there would be a danger of inconsistent rulings. Therefore, Student's Motion to Consolidate is granted as consolidation furthers judicial economy prevents inconsistent rulings.

## ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case number 2012080378 (Second Case) are vacated. The consolidated cases shall proceed on the dates scheduled in OAH Case number 2012041056 (First Case) which are: the PHC for October 3, 2012, at 10:00 a.m., and the hearing for October 9, 2012, and continuing day-to-day. Additionally, the mediation for September 20, 2012, in OAH Case number 2012041056 (First Case) shall remain on calendar if the parties wish to participate in the mediation process, which is voluntary.<sup>2</sup>

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<sup>2</sup> The mediation and due process hearing will be scheduled at OAH's Sacramento Office, located at 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231.

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 2012041056 (First Case).

Dated: August 31, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings