

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2012050077

v.

LANCASTER SCHOOL DISTRICT,

LANCASTER SCHOOL DISTRICT,

OAH CASE NO. 2012040555

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On April 16, 2012, the Lancaster School District (District) filed a Request for Due Process Hearing (Complaint) in the Office of Administrative Hearings (OAH) Case Number 2012040555 (District's Case) against Parents on behalf of the Student (Student).

On April 26, 2012, Student filed a Request for Due Process Hearing in OAH Case Number 2012050077 (Student's Case) against District.

On April 27, 2012, Student filed a Motion to Consolidate District's case with his case. Further, in a separate request on April 27, 2012, Student requested that OAH vacate all mediation and due process hearing dates that have been set in the District's case due to the pending Motion to Consolidate.

On April 30, 2012, District filed a notice of non-opposition to Student's Motion to Consolidate and Student's request to vacate all pending dates in the District's case. As discussed below, both requests are granted.

APPLICABLE LAW

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].)

DISCUSSION

District's case raises the issue of whether its multi-disciplinary psychoeducational assessment of Student, conducted in November 2011 was appropriate so that District does not have to pay for an independent educational evaluation requested by Parents. The results of the assessment were used by District to conclude that Student was not eligible for special education and related services.

On its part, Student's complaint appears to be challenging District's determination that Student is not eligible for special education and related services. Thus, Student's complaint raises the issue of whether Student qualifies for special education under the eligibility category of Other Health Impairment due to documented "long history of behavioral and social issues" in Student.

Clearly, these two cases involve the same parties, and cover same or similar issues and timelines. The two cases present common questions of law and facts, as they relate to the information District considered, or should have considered before determining that Student was ineligible for special education and related services under the Individuals with Disabilities Education Act as re-authorized and amended by the Individuals with Disabilities Education Improvement Act. Further, District is not opposed to consolidation.

Here, consolidation furthers the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs, if any, whether District assessment was appropriate, and whether the assessment's data supports District's determination that Student is ineligible for special education, among others. Evaluating and addressing these questions would involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Therefore, consolidating the cases will promote judicial economy. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012040555 (District's Case) are vacated.
3. The consolidated matters shall proceed based on the timeline established in OAH Case Number 2012050077 (Student's 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 OAH Case Number 2012050077 (Student's Case).

Dated: May 3, 2012

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings