

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: STUDENT, v. NAPA VALLEY UNIFIED SCHOOL DISTRICT ,	OAH CASE NO. 2012051226
NAPA VALLEY UNIFIED SCHOOL DISTRICT, v. STUDENT.	OAH CASE NO. 2012110280 ORDER GRANTING DISTRICT'S MOTION TO CONSOLIDATE

On May 31, 2012, Student filed a request for due process hearing (complaint) in OAH case number 2012051226 (First Case), naming the Napa Valley Unified School District (District). Pursuant to OAH order granting leave to amend, dated October 31, 2012, Student's second amended complaint was deemed filed as of the date of that order.

On November 6, 2012, District filed a complaint in OAH case number 2012110280 (Second Case), naming Student.

On November 6, 2012, District filed a motion to consolidate the First Case with the Second Case. Student did not file a response to the motion.

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].)

Here, the First Case and Second Case involve a common question of law and fact: Student's second amended complaint alleges that District failed to conduct appropriate assessments of Student, and requests reimbursement for an independent educational evaluation (IEE) privately obtained by Student's parents; District's complaint alleges that it adequately performed assessments of Student, and that the circumstances surrounding the IEE request should bar or reduce reimbursement. The motion is supported by declaration of District's counsel attaching email correspondence from Student's counsel stating that Student does not oppose consolidation in light of the overlap of testimony. The parties did not request specific dates. Consolidation furthers the interests of judicial economy because the respective cases will involve many of the same witnesses, documents and questions of law, and will avoid the repetitive presentation of common evidence. Accordingly, consolidation is granted, but given the number of amendments and continuances, no further continuances shall be granted, without good cause.

ORDER

1. District's motion to consolidate is granted.
2. OAH case number 2012051226 (First Case) is designated the primary case.
3. All dates previously set in OAH case number 2012110280 (Second Case) and the First Case are vacated.
4. The Mediation in the above-captioned cases shall be held on December 5, 2012 at 9:30 a.m., the prehearing conference in the consolidated cases shall be held on January 2, 2012 at 1:30 p.m., and the due process hearing in the consolidated cases shall be held on Monday, January 7, 2012, beginning at 1:30 p.m., and continuing day to day, Tuesday through Thursday, at 9:00 a.m., as needed at the discretion of the Administrative Law Judge.
5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the second amended complaint in OAH case number 2012051226 (First Case).
6. There shall be no further continuances, without good cause.

Dated: November 14, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings