

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012100284

v.

ALPINE COUNTY UNIFIED SCHOOL
DISTRICT,

ALPINE COUNTY UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012080276

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On August 13, 2012, Alpine County Unified School District (District) filed a request for due process hearing (complaint) with the Office of Administrative Hearings (OAH), OAH case number 2012080276 (First Case), naming Student. On August 30, 2012, OAH granted the District's motion to amend its complaint, and the amended complaint was filed.

On October 5, 2012, Student filed a complaint naming District, which was assigned OAH case number 2012100284 (Second Case). Simultaneously Student filed a motion to consolidate the First Case with the Second Case.¹ On October 10, 2012, the District filed an objection to consolidation on the ground that Student's complaint has different issues and facts than the District's complaint.²

¹ The dispute between Student and the District has a complicated procedural history. Student filed a complaint on July 11, 2012. However, OAH subsequently dismissed that complaint. The only pleadings OAH will consider are those filed in the First Case and the Second Case.

² The District's objection was contained in a pleading that also contained a motion to bifurcate any due process hearing. On October 10, 2012, the District also filed a motion to dismiss Student's case. The ground for both motions is the District's belief that Parent is not a resident of the District. Because Student has three business days to respond to these motions, they are not currently ripe for ruling and will be ruled on separately.

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

Here, notwithstanding the District's contention, the First Case and Second Case involve a common question of law and fact, specifically, what placement should the District have offered Student when he moved into the District in the spring of 2012, if in fact he did move into the boundaries of the District. In addition, consolidation furthers the interests of judicial economy because many of the same witnesses are likely to testify in both matters concerning the District's offered placement and Student's preferred placement. Further, if the matters are not consolidated and then assigned to different Administrative Law Judges for due process hearing, there is a risk of inconsistent rulings. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2012080276, the First Case, are vacated. All dates previously set in OAH case number 2012100284 are confirmed. 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 2012100284, the Second Case.

Dated: October 11, 2012

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings