

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

DEL MAR UNION SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO 2012100976

ORDER DENYING MOTION TO
CONSOLIDATE

On October 23, 2012, the Del Mar Union School District, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing that named Student. OAH has assigned the District Case number 2012100976. Currently scheduled in the District Case is a prehearing conference set for November 14, 2012, and a due process hearing set for November 21, 2012.

On November 9, 2012, Student, through counsel, filed with OAH a document entitled Petitioner's Response to Due Process Complaint and Cross Complaint/Request for Due Process Hearing. Also, on November 9, 2012, Student filed with OAH a Motion to Consolidate his Cross Complaint with the District Case.

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, OAH does not recognize Student's Cross Complaint as a separate case. Unless and until Student files a separate action which is subject to the full panoply of procedural safeguards set forth in special education law, his Cross Complaint cannot form the basis of affirmative relief and cannot be consolidated with a school district action. Accordingly, consolidation is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates previously set in OAH Case Number 2012100976 (District Case) remain on calendar.

Dated: November 13, 2012

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings