

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

TORRANCE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2013010691

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012100435

ORDER DENYING MOTION TO
CONSOLIDATE

On October 5, 2012, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings (OAH) in OAH case number 2012100435 (First Case), naming Torrance Unified School District (District).

On January 22, 2013, the District filed a Request for Due Process Hearing in OAH case number 2013010691 (Second Case), naming Student.

On January 25, 2013, Student filed a Motion to Consolidate the First Case with the Second Case, and for both matters to be heard on the dates for OAH Case No. 2012100435.¹

On January 28, 2012, the District filed an objection to consolidation on the ground that the two matters do not involve common issues of law or facts.²

¹ A prehearing conference (PHC) is scheduled for March 13, 2013, and a hearing for March 25, 26, 27 and 28, 2013.

² The District also requested that its case be heard before Student's. The District's case is set for a PHC for February 11, 2013, and hearing for February 19, 2013. Because the District's case is scheduled to commence before Student's the District's request is not ripe, and may be discussed if Student files a motion to continue the District's case.

Consolidation

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 do not involve a common question of law or facts as the District's case is simply whether it may assess Student over Parent's objection regarding the selection of the assessor. Whereas, Student's case involves the more complex issue of whether the District denied Student a free appropriate public education. Therefore, a common issue of law and facts do not exist as the simple question in the District's case involves who may assess Student pursuant to the parties' assessment plan, and Student's motion to consolidate is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates previously set for mediation, PHC, and hearing in both matters shall remain as scheduled.

Dated: February 4, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings