

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

ACALANES UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013030937

ORDER DENYING DISTRICT'S
MOTION TO CONSOLIDATE WITH
CASE NO. 2013020547

On February 13, 2013, Parent on behalf of Student filed a request for due process hearing (complaint) in OAH case number 2013020547 (First Case), naming the Acalanes Union High School District (District).

On March 21, 2013, District filed a complaint in OAH case number 2013030937 (Second Case), naming parent on behalf of Student. District also filed a concurrent motion to consolidate the cases.

On March 26, 2013, Student filed a first "addendum" to his complaint in the First Case, alleging further claims and seeking further relief. The first addendum was treated as motion to amend Student's complaint, and as of the date of this order, District's time to respond to the motion to amend has not expired.

On March 27, 2013, Student filed, in the First Case, a notice of insufficiency (NOI) as to District's complaint in the Second Case, which notice was incorrectly labeled as a second "addendum" to Student's complaint. District's complaint in the Second Case was found insufficiently pleaded by order dated March 29, 2013, and District was granted 14 days leave to amend or its complaint would be dismissed.

Student's second addendum also contained opposition to District's motion to consolidate the First Case and Second Case, and was considered.

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].)

In the First case, Student is in the process of seeking leave to amend his complaint to allege additional claims and to seek additional relief against District. In the Second Case, District's complaint has been found to be insufficiently pleaded, and District's complaint will be dismissed if District does not timely file an amended complaint. At this point in time, the two cases are far from being at issue and it cannot be determined whether there are common issues of law or fact, or whether judicial economy will be promoted by consolidation. Accordingly, District's motion to consolidate is denied as premature.

IT IS SO ORDERED.

Dated: March 29, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings