

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013040967 (Primary)
LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013040898 ORDER GRANTING MOTION TO CONSOLIDATE

On April 19, 2013, the Long Beach Unified School District (District) filed a request for due process hearing in OAH case number 2013040898 (First Case), naming Student.

On April 19, 2013, Parent on behalf Student filed a request for due process hearing in OAH case number 2013040967 (Second Case), naming the District.

On May 8, 2013, the parties filed a joint motion to consolidate the First Case with the Second Case, and to vacate the dates set in the First Case. The parties also requested that a mediation for the consolidated cases be set on the vacated hearing date for the First Case, May 21, 2013, subject to the availability of an administrative law judge (ALJ).

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 common questions of law and fact; specifically, both cases seek a determination of whether Student's individualized education program (IEP) of March 15, 2013 offered Student a free appropriate public education (FAPE). Consolidation furthers the interests of judicial economy because the respective cases will involve the same witnesses, documents and questions of law, and will avoid the repetitive presentation of common evidence. Accordingly, consolidation is granted.

ORDER

1. The parties' joint motion to consolidate is granted. The primary case shall be OAH case number 2013040967 (Second Case).
2. All dates previously set in OAH case number 2013040898 (First Case) are vacated.
3. The mediation date in OAH case number 2013040967 (Second Case) is vacated. The mediation in the consolidated cases shall be held at 9:30 a.m. on May 21, 2013. The PHC in the consolidated cases shall be held on June 5, 2013 at 1:30 p.m., and the Due Process Hearing in the consolidated cases shall be held on June 13, 2013 at 9:30 a.m. on the first day and thereafter, and continuing day to day, Monday through Friday, as needed at the discretion of the ALJ hearing the matter.
4. 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 2013040967 (Second Case).

Dated: May 09, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings