

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2014020306

v.

DEL MAR UNION SCHOOL DISTRICT,

DEL MAR UNION SCHOOL DISTRICT,

OAH CASE NO. 2013110845

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 25, 2013, Del Mar Union School District (Del Mar) filed a Request for Due Process Hearing with the Office of Administrative Hearings (OAH) naming Student. That matter was designated as OAH case number 2013110845 (Del Mar's Case). On December 17, 2013, Del Mar timely filed an amended complaint, and all timelines started over. On January 3, 2014, OAH granted the parties' joint request for a continuance and scheduled the matter for a due process hearing beginning on April 1 through 3, 2014, with a telephonic prehearing conference on March 24, 2014.

On February 8, 2014, Student filed a Request for Due Process Hearing naming Del Mar. That matter was designated as OAH case number 2014020306 (Student's Case). On February 11, 2014, OAH issued a scheduling order setting this case for a hearing to begin on April 3, 2014, with a telephonic prehearing conference on March 28, 2014.

On February 8, 2014, Student filed a Motion to Consolidate Student's Case with Del Mar's Case. On February 12, 2014, Del Mar filed a Notice of Non-Opposition to Student's Motion to Consolidate and requested that the dates currently on calendar in Del Mar's Case be preserved.

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 interest of judicial economy by saving time or preventing inconsistent rulings. (See, as guidance, 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, the First Case and Second Case involve common questions of fact and overlapping legal issues. Del Mar's complaint seeks a determination of whether or not it offered Student a free appropriate public education (FAPE) in its June 10, 2013, individualized education program (IEP) offer and its revised IEP offer made on November 1, 2013. Student's complaint places at issue the adequacy of Del Mar's assessments and asserts procedural and substantive denials of FAPE for the 2012-2013 and 2013-2014 school years. Given the overlapping issues regarding the adequacy of the offered and implemented IEP's consolidation is appropriate.

In addition, consolidation furthers the interest of judicial economy because both cases involve the same parties and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve introducing the same or similar documents including relevant IEP's. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the First Case, OAH case number 2013110845.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014020306, Student's Case, are vacated.
3. The consolidated cases shall now be heard on the dates currently set for Del Mar's Case. Namely, the mediation shall be held on February 27, 2014, the pre-hearing conference for the consolidated cases shall be held on March 24, 2014, at 1:00 p.m., and the due process hearing shall begin April 1, 2014, and continue day-to-day, Monday through Thursday, as needed and at the discretion of the Administrative Law Judge.

4. The 45-day timeline for issuing the decision in the consolidated cases shall be based on the date Del Mar's amended complaint was filed in OAH Case Number 2013110845.

Dated: February 14, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings