

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL  
DISTRICT,

OAH CASE NO. 2014100293  
[PRIMARY]

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ACALANES UNION HIGH SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014090040

ORDER GRANTING MOTION TO  
CONSOLIDATE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING IN CONSOLIDATED  
MATTERS

On August 29, 2014, Acalanes Union High School District filed a Request for Due Process Hearing in OAH case number 2014090040 (District's Case), naming Student. On October 7, 2014, Student filed a Request for Due Process Hearing in OAH case number 2014100293 (Student's Case), naming Acalanes.

On October 7, 2014, Student filed a Motion to Consolidate District's Case with Student's Case and to set the consolidated cases for hearing consistent with the dates in the Scheduling Order issued by OAH in Student's case. Student also requested a mediation date. Acalanes did not file a response to the motion.

*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, District's case raises one issue, specifically whether its 2014 psychoeducational assessment was appropriate and therefore Student is not entitled to an independent educational evaluation at public expense. Student's case raises 5 substantive issues relating to a denial of a free appropriate public education, and Student also claims that the applicable statute of limitations should be extended back to 2011. Student's issues include Child Find, failure to assess in assistive technology, failure to develop an appropriate individualized educational program, failure to implement Student's IEP, and failing to provide a correct or final IEP document.

None of Student's claims specifically challenge the psychoeducational assessment referred to in District's case. However, generally, the facts in District's case are consistent with those raised by Student and involve overlapping time periods. Because the two cases involve common issues of law and fact, judicial economy would be best served by consolidating the two matters. Accordingly, consolidation is granted.

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Here, Student requested that consolidated matters be set for hearing consistent with the dates in Student's Case. District did not oppose the request, and therefore the request is granted. Student requested that OAH set a mediation date. However, the Scheduling Order in Student's case has set a mediation in Student's Case for November 12, 2014 at 9:30 a.m. Accordingly, the mediation date is confirmed and if the parties wish to change the date they may request a different date from OAH after meeting and conferring on mutually agreeable dates.

#### ORDER

1. Student's Motion to Consolidate is granted. Student's Case shall be considered Primary.
2. All dates previously set in OAH Case Number 2014090040 (District's Case) are vacated.
3. The consolidated matters shall be set for mediation and hearing consistent with the October 8, 2014 Scheduling Order in Student's Case.

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 2014100293 (Student's Case).

DATE: October 28, 2014

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings