

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

STUDENT,

v.

OCEANSIDE UNIFIED SCHOOL DISTRICT,

OAH Case No. 2015041216

OCEANSIDE UNIFIED SCHOOL DISTRICT,

v.

STUDENT.

OAH Case No. 2015101074
[Primary Case]

ORDER GRANTING MOTION TO
CONSOLIDATE

On September 21, 2015, Student filed an Amended Due Process Complaint in OAH case number 2015041216 naming Oceanside Unified School District (Student's Case). The due process hearing in Student's Case is set for November 17, 2015.

On October 26, 2015, Oceanside Unified School District filed a Request for Due Process Hearing in OAH case number 2015101074 naming Student (District's Case). The due process hearing in District's Case is set for November 24, 2015.

On October 28, 2015, District filed a Motion to Consolidate District's Case with Student's Case. On October 31, 2015, Student filed a Notice of Non-opposition to District's Motion to Consolidate.

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 parties agree, Student's Case and District's Case involve common questions of law and fact. District's complaint alleges two issues, in brief: whether District may conduct a functional behavior assessment and whether it offered Student a free appropriate

public education in an individualized education program dated September 11, 2015, as amended May 27, 2015 and August 18, 2015. Student's complaint alleges six issues that encompass District's issues and arise during the same time period. While the allegations in Student's complaint are broader than the issues alleged in District's complaint, there will be substantial overlap in the potential witnesses and exhibits involved. In addition, consolidation furthers the interests of judicial economy and avoids the potential for inconsistent results. 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).) There being no request to continue the consolidated matters, the due process hearing shall proceed on the date set in District's Case. District's Case shall be designated the primary case and timelines shall be determined

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015041216 , Student's Case, are vacated.
3. 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 2015101074, District's Case.

DATE: November 03, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings