

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015110536
v.	
OAKLAND UNIFIED SCHOOL DISTRICT,	
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OAKLAND UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015110257
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE

On November 4, 2015, Oakland Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2015110257 (District’s Case), naming Student.

On November 10, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015110536 (Student’s Case), naming Oakland.

On November 16, 2015, the parties filed a joint stipulation requesting that OAH consolidate District’s Case with Student’s Case.

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].)

DISCUSSION

Here, District's Case and Student's Case involve common questions of law and fact. Oakland seeks an order that Student is not entitled to an independent speech and language assessment based on the appropriateness of its June 2015 speech and language assessment of Student. Student identifies as an issue for hearing Oakland's failure to fully assess Student in all suspected areas of disability, including speech and language, and seeks an independent educational evaluation. Student's additional issues include Oakland's alleged failures to develop an appropriate educational program, obtain parental input, translate documents, and provide copies of Student's educational records, all during the same approximate time frame.

As stipulated to by the parties, these cases present common questions of law and fact regarding the appropriateness of Oakland's speech and language assessment of Student and whether he is entitled to an independent evaluation at public expense. Consolidation, therefore, is warranted and will prevent the risk of inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties, and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve the introduction of the same or similar documents including the speech and language assessment. 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 Student's Case.

ORDER

1. The parties' Motion to Consolidate is granted.
2. All dates previously set in District's Case, OAH case number 2015110257, are vacated.
3. The consolidated cases shall now be heard on the dates set for Student's Case, OAH case number 2015110536. Specifically, mediation is calendared for December 15, 2015, at 9:30 a.m., with a prehearing conference on December 28, 2015, at 1:00 p.m., and the hearing shall begin on January 5, 2016, at 9:30 a.m.

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 Student's Case, OAH case number 2015110536.

IT IS SO ORDERED.

DATE: November 17, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings