

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

vs.

ANAHEIM UNION HIGH SCHOOL
DISTRICT,

OAH CASE NO. 2008100494 (Primary)

ANAHEIM UNION HIGH SCHOOL
DISTRICT,

vs.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009020641

ORDER GRANTING MOTION TO
CONSOLIDATE

On October 16, 2008, Student filed a Request for Due Process Hearing (Student's complaint), naming Anaheim Union High School District (District) as the respondent. On January 26, 2009, OAH issued an order authorizing Student to file an amended complaint. This matter was designated as OAH Case No. 2008100494.

On January 29, 2009, OAH issued a Notice of Due Process Hearing, Notice of Mediation, and Notice of Telephonic Prehearing Conference (PHC) in Student's case. The PHC was set for March 13, 2009, at 10:00 a.m., and the due process hearing is set for one-day, March 23, 2009.

On February 20, 2009, District filed a Request for Due Process Process Hearing (District's complaint), naming Student as the respondent. This matter was designated as OAH Case No. 209020641. Included in the complaint was a Motion to Consolidate Student's complaint with District's complaint. District requested that the consolidated matters proceed to hearing on the date set in Student's case. Student has not responded to the motion.

On February 24, 2009, OAH issued a Notice of Due Process Hearing, Notice of Mediation, and Notice of Telephonic PHC in District's complaint. The PHC was set for

March 16, 2009, at 1:30 p.m., and the due process hearing is set for March 23, 2009-March 27, 2009.

APPLICABLE LAW AND DISCUSSION

OAH will generally consolidate matters that involve a common question of law and/or fact and that involve the same parties, and when consolidation of the matters furthers the interests of judicial economy and will obviate potentially inconsistent rulings. While no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, California statutes offer, by analogy, a standard appropriate to special education cases. Government Code section 11507.3, subdivision (a), provides that an administrative law judge “may” order pending administrative proceedings consolidated if they involve “a common question of law or fact.” California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

The above-titled cases generally involve common questions of law or fact. Student’s complaint alleges District failed to provide a free appropriate public education (FAPE) by failing to assess Student in all areas of suspected disability. District’s complaint seeks a determination that its triennial assessments of Student were appropriate. Moreover, Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy.

ORDER

1. District’s Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All dates in Student’s amended complaint, OAH Case No. 2008100494, are vacated. The PHC date of March 16, 2009, at 1:30 p.m. and due process hearing dates of March 23-27, 2009, set in District’s complaint, OAH Case No. 209020641, shall remain on calendar and become the current scheduled dates for the consolidated matter.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student’s amended complaint in OAH Case No. 2008100494.

Dated: March 03, 2009

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings