

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

DRY CREEK JOINT ELEMENTARY
SCHOOL DISTRICT, PLACER COUNTY
OFFICE OF EDUCATION AND PLACER
COUNTY CHILDREN SYSTEM OF
CARE.

OAH CASE NO. 2010110717

ORDER DENYING MOTION TO
CONSOLIDATE

On September 29, 2010, the Dry Creek Joint Elementary School District (District) filed a Request for Due Process Hearing in the Office of Administrative Hearings (OAH) case number 2010091063 (First Case) against Student.

On November 19, 2010, Student filed a Request for Due Process Hearing in OAH case number 2010110717 (Second Case) against the District, Placer County Office of Education (PCOE) and Placer County Children System of Care (PCCSC). Student filed an amended complaint on December 10, 2010.

On December 28, 2010,¹ Student filed a Motion to Consolidate the First Case with the Second Case.²

On December 30, 2010, the District filed an objection to consolidation on the grounds that the matters do not involve the same witnesses, parties, questions of law and that Student's request would unduly delay a hearing regarding the District's complaint. PCOE and PCCSC did not file a response. On December 31, 2010, Student filed a reply brief.

APPLICABLE LAW and DISCUSSION

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

¹ Student filed a Motion to Consolidate on November 19, 2010, which OAH did not rule upon as OAH found Student's complaint insufficient on December 9, 2010, and gave Student 14 days to file an amended complaint.

² Student has a pending motion to continue the due process hearing date in the District filed case, which will be addressed in a separate ruling.

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].)

While, the First Case and Second Case involve a common question of law and fact regarding whether the District's offer of services and placement for the 2010-2011 school year (SY) provided Student with a free appropriate public education, Student's complaint contains significantly disparate issues regarding SY 2008-2009 and 2009-2010.³ Student's contentions for these two school years involve different parties, PCOE and PCCSC, which will necessitate the calling of different witnesses. Additionally, Student's claims for SY 2008-2009 and 2009-2010 involve different factual contentions regarding the adequacy of the program operated by PCOE, while the District's SY 2010-2011 offer involves the adequacy of a non-public school to meet Student's unique needs. There is no danger of inconsistent rulings as both parties will have a full opportunity to present evidence regarding the adequacy of the District's offer for SY 2010-2011. Finally, the District's case involves a separate issue regarding whether it may assess Student over Parents' objection, which is not an issue in Student's case. Therefore, Student's Motion to Consolidate is denied as the District's discrete issues as to its offer for SY 2010-2011 and assessment request is in contrast with Student's multitude of procedural and substantive issues involving three educational agencies over multiple school years does not sufficiently further judicial economy or prevent inconsistent rulings to warrant consolidation.

ORDER

Student's Motion to Consolidate is denied.

Dated: December 31, 2010

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

³ Student's contentions from the start of SY 2005-2006 through November 18, 2010, were dismissed by OAH on December 29, 2010 for being outside the two year statute of limitations. Student filed a motion for reconsideration on December 31, 2010.