

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CULVER CITY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011090039
CULVER CITY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012020306 ORDER GRANTING MOTION TO CONSOLIDATE AND RESCHEDULING PHC DATE FOR CONSOLIDATED CASES

On February 9, 2012, Culver City Unified School District filed an unopposed motion to consolidate Student's Case, OAH case number 2011090039, with District's Case, OAH case number 2012010306. District supported the consolidation request with a declaration under penalty of perjury that the parties had agreed that should the matter be consolidated, the hearing shall proceed on the dates set for hearing in Student's Case, with the exception of the prehearing conference (PHC), which the parties requested be held on February 29, 2012. Then reason given for consolidation was that Student's Case addresses a June of 2011 IEP, whereas District's Case addresses an amendment to that IEP.

In a separate motion filed in Student's Case, the parties have requested that the PHC in Student's case be moved to February 29, 2012. This order addresses both motions. Consolidation will be granted, however, no further continuances of Student's Case are contemplated and it is expected that both matters will go to hearing as scheduled.

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, Student's Case and District's Case involve common questions of law and fact, in particular, that the IEP's at issue are factually connected, such that the same witnesses and evidence will be required. In addition, consolidation prevents inconsistent rulings, as one IEP is an amendment of the other. However, given the age of Student's Case, consolidation is being granted based on the parties' representation that they are ready to proceed with both matters on the hearing dates already established in Student's Case. Further continuances are not contemplated. Accordingly, consolidation is granted to the dates established for hearing in Student's Case, with the exception of the PHC, which shall be held on February 29, 2012.

The consolidation motion omits any mention of mediation in District's Case, which is currently scheduled for February 23, 2012. It can only be inferred that the parties do not desire mediation based on the motion papers. Accordingly, the February 23, 2012 mediation will be vacated. The parties shall immediately notify OAH if they want to attend mediation on February 23, 2012.

ORDER

1. District's unopposed Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012020306 are vacated.
3. The dates for hearing established in Student's Case, OAH case number 2011090039, shall apply to the consolidated matters, with the exception of the PHC, which shall be re-set. The dates for further proceedings in the consolidated matters are now: Telephonic PHC - February 29, 2012 at 1:30 p.m.; Hearing – March 5-8, 2012 at 1:30 p.m. first day, 9:00 a.m. after at OAH, 15350 Sherman Way, suite 300, Van Nuys, California, 91406.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the filing date of the amended complaint in Student's Case, OAH case number 2011090039.

Dated: February 15, 2012

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings