

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2012070797

v.

NATOMAS UNIFIED SCHOOL
DISTRICT.

NATOMAS UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2012090361

v.

PARENTS ON BEHALF OF STUDENT

ORDER GRANTING MOTION TO
CONSOLIDATE

On July 25, 2012, Student filed a request for a due process hearing (complaint) in OAH Case Number 2012070797 (First Case), naming the Natomas Unified School District (District).

On September 12, 2012, a telephonic prehearing conference (PHC) in the First Case was held before Administrative Law Judge (ALJ) Deidre L. Johnson, Office of Administrative Hearings (OAH). Also on September 12, 2012, District filed a complaint in OAH Case Number 2012090361 (Second Case), naming Student. However, neither the ALJ nor Student received the Second Case before the PHC.

Based on good cause shown, the ALJ granted a brief continuance of the hearing in the First Case for the purpose of allowing the parties time to file and respond to District's new case and request for consolidation. The First Case is now set for a PHC on September 24, 2012, and a hearing on October 1 through 4, 2012.

On September 13, 2012, OAH issued a scheduling order in the Second Case setting mediation on September 27, 2012, a PHC on October 3, 2012, and a hearing beginning on October 9, 2012. Also on September 13, 2012, District filed a Stipulation to Consolidate the First Case with the Second Case and to use the due process hearing dates set in the First Case. The attorneys for both parties signed the stipulated motion to consolidate the cases.

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 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].)

In this case, Student has had the opportunity to review the Second Case and has withdrawn his earlier opposition to the motion. The parties now stipulate that both cases involve common questions of fact and law and should be consolidated. District’s issues include many of Student’s issues, along with a new issue regarding District’s August 2012 offer for the 2012-2013 school year. Accordingly, consolidation furthers the interests of judicial economy in that the matters in both cases will involve the same or similar witnesses and may reasonably be litigated in one hearing.

ORDER

1. The joint request of the parties to consolidate the First Case with the Second Case is granted.

2. Statutory timelines for this consolidated action will be controlled by Student’s First Case, in OAH Case Number 2012070797. All dates in the District’s Second Case, OAH Case Number 2012090361, are vacated.¹

3. Based on the parties’ request, the following dates are set:

Prehearing Conference: September 24, 2012, at 10:00 a.m.

Hearing October 1, 2012, at 1:30 p.m., and
October 2 through 4, 2012, at 9:00 a.m.

Dated: September 20, 2012

/s/
DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ The parties may meet and confer to set a date to voluntarily participate in mediation prior to the hearing and notify OAH.