

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014010189

v.

WESTMINSTER SCHOOL DISTRICT.

WESTMINSTER SCHOOL DISTRICT,

OAH CASE NO. 2013101072

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On October 29, 2013, the Westminster School District, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (District Complaint) that named Student. OAH assigned the District Complaint case number 2013101072. Currently pending in the District Complaint are a prehearing conference set for January 10, 2014, and a due process hearing set for January 21 and 22, 2014.

On January 7, 2014, Student, through counsel, filed with OAH a Request for Due Process Hearing (Student Complaint) that named the District. OAH assigned the Student Complaint case number 2014010189. Currently pending in the Student Complaint are a mediation set for February 2, 2014, a prehearing conference set for February 24, 2014, and a due process hearing set for March 4, 2014.

Also, on January 7, 2014, Student filed with OAH a motion to consolidate the District and Student Complaints. On January 9, 2014, the District filed with OAH a non-opposition to this request.

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, the District and Student Complaints involve common questions of law and fact. The District Complaint seeks to uphold the appropriateness of a June 2013 multidisciplinary psychoeducational assessment of Student, while the Student Complaint seeks to show that such assessment, and the IEP based upon the assessment, were not appropriate. Accordingly, consolidation is proper and is granted.

ORDER

1. Student's Motion to Consolidate OAH case numbers 2013101072 and 2014010189 is granted.
2. All dates previously set in OAH case number 2013101072 (District Complaint) are vacated.
3. The initially scheduled mediation and hearing dates in OAH case number 2014010189 (Student Complaint) shall become the mediation and hearing dates in the consolidated matters.
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 OAH case number 2014010189 (Student Complaint).

Dated: January 10, 2014

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings