

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MORGAN HILL UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016031038 (Primary)
MORGAN HILL UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016030186 ORDER GRANTING MOTION TO CONSOLIDATE

On March 2, 2016, Morgan Hill Unified School District filed with the Office of Administrative Hearings a request for due process hearing naming Parents on behalf of Student in OAH case number 2016030186 (District’s Case).

On March 23, 2016, Parent on behalf of Student filed with OAH a request for due process hearing naming District in OAH case number 2016031038 (Student’s Case).

On March 23, 2016, in Student’s Case, Student filed a motion to consolidate Student’s case with District’s Case.

On March 28, 2016, District filed an opposition to consolidation on the grounds that the prehearing conference order in District’s case ordered any motions filed after the PHC of March 22, 2016 be supported by a declaration under penalty of perjury establishing good cause as to why the motion was not made prior to the PHC, and no declaration was included in Student’s motion. District also objects that the issues in Student’s case are broader than the sole issue in District’s case.

APPLICABLE LAW

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 a common question of law or fact, specifically, whether the individualized education program dated November 17, 2015 offered Student a free appropriate public education. Student's Case claims that District denied Student a FAPE for the 2014-2015 school year, as well as that portion of the 2015-2016 school year covered by the November 2015 IEP. In addition, consolidation furthers the interests of judicial economy because economy because the same witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately.

Although Student's motion fails to comply with the PHC order in District's case, the interests of judicial economy weigh strongly in favor of consolidation.

ORDER

1. Student's motion to consolidate is granted.
2. All dates previously set in OAH case number 2016030186 (District's Case) are vacated.
3. The mediation, prehearing conference and hearing in these consolidated matters will take place on the dates currently scheduled in Student's Case.
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 2016031038 (Student's Case).

DATE: March 28, 2016

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ALEXA J. HOHENSEE

Administrative Law Judge

Office of Administrative Hearings