

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPECIAL EDUCATION DIVISION  
STATE OF CALIFORNIA

In the Matters of:

STUDENT,

Petitioner,

vs.

SAN DIEGO UNION HIGH SCHOOL  
DISTRICT,

Respondent.

OAH No. 2005110335

---

SAN DIEGO UNION HIGH SCHOOL  
DISTRICT,

Petitioner,

vs.

STUDENT,

Respondent.

OAH No. 2006020151

ORDER REGARDING MOTION FOR  
CONSOLIDATION

**STATEMENT OF FACTS**

On November 10, 2005, the Office of Administrative Hearings (OAH) received a due process hearing complaint (Complaint) from Margaret A. Dalton, Attorney, on behalf of Student, which names as the Respondent, San Diego Union High School District (District). There is no scheduled hearing date and this case is identified as OAH No. N2005110335.

On February 6, 2006, OAH received a request for due process hearing from the District, through legal counsel Amy J. Bozone, which named Student as the Respondent. This matter is set for hearing on March 10, 2006, and is identified as OAH No. N2006020151.

On February 6, 2006, OAH received a motion from the District that requested that the two cases be consolidated. On February 9, 2006, OAH sent a Notice of Motion that gave Student's five business days to respond to the District's consolidation request. On February 15, 2006, OAH received Student's response. Neither party has requested a continuance as part of the Motion to Consolidate.<sup>1</sup>

### **APPLICABLE LAW**

Consolidation of due process matters may be granted on a case-by-case basis when the parties are the same, when there are common questions of law and fact, and when to do so would promote judicial economy and avoid potentially inconsistent rulings. Determination of whether consolidation will be granted is solely within the discretion of OAH and parties should submit argument supporting their request, regardless of whether the consolidation is unopposed among the parties to the case.

### **DISCUSSION**

Regarding the motion to consolidate, the two cases concern the same student. However, the cases involve very different questions of law and fact. The District's Complaint concerns whether the District may conduct a mental health assessment on Student. Student's Complaint involves the appropriate placement for Student. The cases will have significantly different testimony and evidence concerning Student's placement and the District's request to conduct a mental health assessment. Thus, consolidation is not appropriate since the cases do not have significant common questions of law and fact. (*In re Capistrano Unified School District* SN00-590; Consolidation not appropriate when one case involves issues of services and placement and the other case involves issues of assessment, as the cases do not involve common questions of law or fact.)

### **ORDER**

1. The District's motion to consolidate is denied.

---

<sup>1</sup> On February 21, 2006, OAH received from the District an opposition brief to Student's Motion to Dismiss. However, OAH has not received a Motion to Dismiss from Student as to OAH Case No. N2006020151.

2. OAH No. N2006020151 will be heard on March 10, 2006, and OAH No. N2005110335 is subject to Presiding Administrative Law Judge Timothy L. Newlove's February 9, 2006 Order concerning the setting of a Trial Setting Conference.

Dated: February 24, 2006

---

PETER PAUL CASTILLO  
Administrative Law Judge  
Special Education Division  
Office of Administrative Hearings