BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN FRANCISCO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015110775
SAN FRANCISCO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015110983 ORDER GRANTING MOTION TO CONSOLIDATE

On November 12, 2015, Student filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2015110775 (Student's Case), naming San Francisco Unified School District.

On November 23, 2015, San Francisco filed its own request for due process hearing in OAH case number 2015110983 (District's Case), naming Student.

On November 24, 2015, San Francisco filed a Motion to Consolidate Student's case with District's case.

On December 1, 2015, Student filed an objection to consolidation on the ground that claim alleged in San Francisco's complaint, Parent's refusal to consent to assessment, was moot. Student claimed that Parents would consent to a San Francisco assessment of Student if the assessment plan specified that the assessment was for autism. Student also filed a motion to continue on the same date which will be addressed in a separate order.

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].)

DISCUSSION

Here, Student's Case and District's Case involve a common question of law or fact, specifically, assessment of student by San Francisco pursuant to the Individuals with Disabilities Education Act. Student's argument in his opposition raises a factual issue that would be addressed at the due process hearing. Consolidation furthers the interests of judicial economy because many of the witnesses and much of the documentary evidence introduced may be the same for both cases. Accordingly, consolidation is granted.

ORDER

1. San Francisco's Motion to Consolidate is granted.

2. All dates previously set in OAH Case Number 2015110983, District's Case, are vacated.

3. 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 2015110775, Student's Case.

4. The dates currently scheduled in Student's case, Mediation at 9:30 a.m. on December 17, 2015; Prehearing Conference on December 28, 2015 at 3:00 p.m.; and Due Process Hearing beginning on January 6, 2016 at 9:30 a.m. are confirmed.

DATE: December 3, 2015

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings