BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. RIVERSIDE COUNTY OFFICE OF EDUCATION,	OAH CASE NO. 2013040771
PARENT ON BEHALF OF STUDENT, v. RIVERSIDE COUNTY OFFICE OF EDUCATION. .	OAH CASE NO. 2013080367 ORDER GRANTING RIVERSIDE COUNTY OFFICE OF EDUCATION'S MOTION TO CONSOLIDATE

FACTUAL BACKGROUND

On April 16, 2013, Student filed a Request for Due Process Hearing (complaint) in Office of Administrative Hearings (OAH) case number 2013040771 (First Case), naming, inter alia, the Riverside County Office of Education (RCOE).[1]

On August 5, 2013, Student filed a complaint in OAH case number 2013080367 (Second Case), again naming RCOE.

On August 12, 2013, RCOE filed a Motion to Consolidate the First Case with the Second Case. Student has not filed an opposition or otherwise responded to RCOE's motion.

[1] Student named several other respondents in his first case, all of whom were previously dismissed by the Office of Administrative Hearings.

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].)

Here, RCOE contends that both of Student's cases arise out of the same set of facts regarding Student's educational program and eligibility for special education. RCOE further asserts that both cases involve the same members of Student's individualized education program team and involve the same assessors. RCOE also asserts that both cases present common questions of law related to the appropriate program for Student and that many of the witnesses and documentary evidence will be the same for both cases.

Student has not filed any response that contradicts the assertions made by RCOE in its motion.

Since the two cases involve overlapping issues regarding Student's education and his rights under state and federal special education law, and will involve some of the same witnesses and evidence, consolidation of these cases will further the interest of judicial economy. Therefore, RCOE's motion to consolidate the two above-captioned cases is granted.

ORDER

1. RCOE's Motion to Consolidate is granted.
2. At the prehearing conference for the First Case, which took place on August 12, 2013, OAH granted the request of RCOE to continue that case. As the dates for that hearing are subsequent to the dates now set for the Second Case, all dates previously set in OAH Case Number 2013080367 [Second Case] are vacated.
3. The prehearing conference and due process hearing in this consolidated matter shall be heard on the dates set by OAH in the Order Following Prehearing Conference and Granting Continuance issued in OAH Case Number 2013040771 on August 12, 2013:

   Prehearing Conference: October 11, 2013, at 10:00 a.m.

   Due Process Hearing: October 21-24 and 28-29, 2013, and continuing day to day, Monday through Thursday as needed at the discretion of the

ALJ. The hearing shall start at 1:30 p.m. on October 21, 2013, and at 9:00 a.m. all other days, unless otherwise ordered.

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 2013040771 [First Case].

Dated: August 21, 2013

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings