BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT, v. SALINAS UNION HIGH SCHOOL DISTRICT,	OAH CASE NO. 2013080348 ORDER DENYING MOTION TO CONSOLIDATE

On July 15, 2013, Salinas Union High School District (District) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2013070582 (First Case), naming Student. The First Case is set for hearing on August 20 – 23, 2013.

On August 12, 2013, Student filed a Request for Due Process Hearing in OAH case number 2013080348 (Second Case), naming the District. The Second Case was set for hearing on October 8, 2013.

At the August 12, 2013 prehearing conference for the First Case, Student made an oral Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in Case Number 2013080348 (Second Case).

On August 13, 2013, the District filed an objection to consolidation on the ground that Student's complaint and request to consolidate the cases because of the lateness of the request. The same day, the District also filed a Notice of Insufficiency (NOI), which OAH granted on August 14, 2013, which vacated the dates for hearing and gave Student 14 days to file an amended complaint.

Consolidation

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].)

While, the First Case and Second Case do contain some common questions of law or fact regarding the independent educational evaluation the District provided Student and Student's academic performance during the past two years, Student did not explain the

lateness of the filing his due process complaint. Additionally, Student's complaint involves different factual issues regarding whether the District's educational program provided Student with a free appropriate public education and no whether presently Student is eligible for special education services. Finally, the granting of the District's NOI also means that there is no present case to consolidate with the District's case. Accordingly, Student's motion to consolidate is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates for hearing in OAH case number 2013070582 shall remain as scheduled.

Dated: August 14, 2013

/s/
PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings