BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT,	OAH CASE NO. 2013040122
PARENTS ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT,	OAH CASE NO. 2013030785 ORDER GRANTING MOTION TO CONSOLIDATE

On March 18, 2013, Parents, on behalf of Student (Student) filed a Request for Due Process Hearing (Complaint) against the Cupertino Union School District (District). The Office of Administrative Hearings (OAH) designated Student's complaint as Case Number 2013030785 (First Case).

On April 2, 2013, Student filed a second Request for Due Process Hearing (Second Complaint) against District. OAH designated Student's second complaint as Case Number 2013040122 (Second Case).

On April 12, 2013, District filed a motion to consolidate the two cases. On April 16, 2013, Student filed an opposition to District's motion to consolidate. As discussed below, the request to consolidate the cases is granted.

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

In his First Case, Student alleges that District denied him a free appropriate public education (FAPE) because District "unilaterally predetermined" its March 29, 2012 individualized educational program (IEP) offers to Student.

Student's Second Case alleges that District denied Student a FAPE because: 1) District ignored Parents' request for home school instruction for Student, at the May 31, 2012 IEP team meeting; and 2) District failed to implement Student's August 29, 2012 IEP, by failing to provide home school instruction, and speech and language therapy as contained in the August 29, 2012 IEP..

Here, the two cases are similar, as both involve the same parties and cover the same or similar issues. Each case raises issues regarding District's obligation to provide FAPE to Student, and whether District, procedurally and substantively, met its obligation to provide Student with a FAPE through the IEP process. The cases present common questions of law and facts, as both relate to District's obligation to meet Student's unique educational needs.

Therefore, consolidation furthers the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs, and what placement and services are needed to meet those needs, among others. Evaluating and addressing these questions would involve the same evidence and witnesses. Analyzing and resolving the issues would involve the same questions of law and facts. Therefore, consolidating the cases will promote judicial economy.

Student opposed consolidation because Parents would require more time to prepare for two cases instead of one. It does not appear that this is a proper ground to oppose consolidation, and Parents may make all appropriate requests to OAH, should the Parents need additional time in order to prepare for the hearing in the consolidated matters. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.

2. All dates previously set in OAH Case Number 2013030785 (First Case) are vacated.

3. The consolidated matters shall proceed based on the timeline established in OAH Case Number 2013040122 (Second 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 2013040122 (Second Case).

Dated: April 16, 2013

/s/
ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings