BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. OAKLAND SCHOOL FOR THE ARTS.	OAH Case No. 2015040708
OAKLAND SCHOOL FOR THE ARTS , v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015030095 ORDER GRANTING MOTION TO CONSOLIDATE

On March 2, 2015, attorney Sarah Bancroft, on behalf of Oakland School for the Arts (Oakland), filed a Request for Due Process Hearing in OAH Case Number 2015030095 (First Case), naming Student. On March 23, 2015, Student's request for continuance in the First Case was granted. The due process hearing in that matter is scheduled for April 21, 2015 through April 23, 2015.

On April 14, 2015, attorney LaJoyce Porter, on behalf of Student, filed with the Office of Administrative Hearings a Request for Due process Hearing in OAH Case Number 2015040708 (Second Case), naming Oakland. On April 15, 2015, Student filed a motion to consolidate the Second Case with the First Case. On April 17, 2015, Oakland filed an opposition to Student's motion to consolidate.

APPLICABLE LAW AND 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].)

The First Case alleges that Oakland's September 22, 2014 psycho-educational assessment of Student meet all legal requirements such that Student was not entitled to an independent education evaluation (IEE) at Oakland's expense. The Second Case alleges multiple procedural and substantive violations on the part of Oakland. According to Student's complaint and Motion to Consolidate, Oakland utilized the September 2014 assessment to make educational decisions about Student, some of which are the subject of Student's complaint. Therefore, the First Case and Second Case involve a common question of fact. The commonality of facts in both cases creates the risk of inconstant rulings in the event that the two cases were tried separately.

Additionally, consolidation furthers the interests of judicial economy because the commonality of factual issues, if litigated separately, would necessitate calling some of the same witnesses and using some of the same documentary evidence. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.

2. All dates previously set in OAH Case Number 2015030095 (First 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 2015040708 (Second Case).

4. The case shall proceed to hearing according to the dates currently set in the Second Case.

DATE: April 20, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings