

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
SANTA ANA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012110761
v.	
PARENTS ON BEHALF OF STUDENT	
PARENTS ON BEHALF OF STUDENT	OAH CASE NO. 2013010461
v.	
SANTA ANA UNIFIED SCHOOL DISTRICT.	ORDER FOLLOWING PRE-HEARING CONFERENCE OF FEBRUARY 4, 2013; ORDER GRANTING JOINT MOTION TO CONSOLIDATE AND GRANTING JOINT MOTION TO CONTINUE

PROCEDURAL HISTORY

On November 28, 2012, the Santa Ana Unified School District (District) filed with the Office of Administrative Hearings (OAH) a Due Process Request naming Parents on behalf of Student (Student) as the respondent. The sole issue in this case is whether the District's behavior assessment was appropriately conducted such that Student is not entitled to an Independent Educational Evaluation (IEE) at public expense. This first case was designated OAH case number 2012110761. On January 16, 2013, Student filed a Due Process Hearing Request (complaint), naming the District as respondent. Amongst other issues, this complaint alleges that the District's behavior assessment was inappropriate and requests an IEE at public expense. The second case was designated OAH case number 2013010461.

On February 4, 2013, a telephonic prehearing conference (PHC) was held for the first case before Administrative Law Judge (ALJ) Paul H. Kamoroff, Office of Administrative Hearings (OAH). Sundee M. Johnson, Attorney at Law, appeared on behalf of the District. Vanessa Jarvis, Attorney at Law, appeared on behalf of Student. The PHC was recorded.

At the onset of the PHC, the parties jointly requested that the two cases be consolidated, and jointly moved to continue the hearing dates.

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].)

The parties here urge consolidation because the two cases present at least one identical issue. Consequently, witnesses, evidence, and testimony in each case would be almost identical, and it would be a waste of resources to have separate proceedings where the second case will effectively overlap the first.

After due consideration, in light of the agreement of the parties and in the furtherance of judicial economy, the joint motion to consolidate is granted.

Additionally, good cause appearing, the parties' joint motion to continue the consolidated hearing is granted.

ORDER

1. The parties' joint motion to consolidate is granted.
2. The hearing dates previously set in the first case, OAH case number 2012110761, are vacated.
3. The parties' motion for continuance is granted. The hearing dates for the second case, OAH case number 2013010461, are vacated.
4. The consolidated cases will be heard on March 18-21, 2013. The hearing shall begin each day at 9:00 a.m. and end at 5:00 p.m., with the exception of the first day of hearing, on which day the hearing shall begin at 1:30 p.m., unless otherwise ordered. The PHC shall be reconvened on March 11, 2013, at 1:30 p.m.
5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the second complaint, OAH case number 2013010461.

Dated: February 04, 2013

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings