

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014010491
v.	
PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT,	
PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014010766
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE

On January 13, 2014, Parent on behalf of Student filed a Request for Due Process Hearing (complaint) in OAH case number 2014010491 (Primary Case), naming Paso Robles Joint Unified School District (District). The gravamen of Student's complaint is that District failed to respond without unnecessary delay and fund Student's request for independent educational evaluations (IEEs) as required under the Individual with Disabilities Education Act (IDEA). OAH issued a scheduling order setting the Mediation for February 18, 2014, the prehearing conference (PHC) for February 28, 2014, and the due process hearing (DPH) for March 6, 2013, continuing day to day, Monday through Thursday.

On January 21, 2014, District filed a complaint in OAH case number 2014010766 (Second Case) seeking a determination that the assessments subject to Student's requests for IEEs were properly conducted.

On January 21, 2014, District also moved to consolidate the Primary Case with the Second Case on the ground that there were common issues of fact and law, and that consolidation would further the goal of efficient management of due process hearing. On January 22, 2014, Student opposed the motion to consolidate on the grounds that consolidation was inefficient and prejudicial because District is not entitled to show that its assessments were appropriate due to its unnecessary delay. On January 24, 2014, District replied to Student's opposition reiterating that consolidation was efficient.

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].)

Here, the Primary Case and Second Case involve a common question of law or fact, specifically whether District is obligated to fund IEEs due to its failure to comply with the IDEA by failing to file without unnecessary delay, and if it is determined that it filed without unnecessary delay, because its assessments were inappropriate. In addition, consolidation furthers the interests of judicial economy because the issues are the same, and under the IDEA the District has the burden of proving whether it met its obligations in responding to a parental request for an IEE, whether or not Student or District filed. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014010766 [Second Case], are vacated, and continued.
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 201401491 [Primary Case].
4. The parties shall use the consolidated pleading caption for all further filings, and OAH shall file all filings in the Primary Case.
5. The schedule for the consolidated case shall be the same as the Primary Case: Mediation, February 18, 2014, 9:30 a.m.; prehearing conference, February 28, 2014, 1 p.m., Due Process Hearing, March 6, 2014 (9:30 a.m.), and continuing day to day, Monday through Thursday, at the discretion of the Administrative Law Judge (ALJ). The location for the mediation and Due Process Hearing is 800 Niblick Road, Paso Robles, California 93477, until further notice.

Dated: January 31, 2014

/s/

EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings