

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
OAKLAND UNIFIED SCHOOL DISTRICT,	OAH Case No.2014050059
v.	
PARENT ON BEHALF OF STUDENT	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2014080454
v.	
OAKLAND UNIFIED SCHOOL DISTRICT.	ORDER GRANTING MOTION TO CONSOLIDATE

On April 29, 2014, Oakland Unified School District (Oakland) filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2014050059 (First Case), naming Student. This matter is set for hearing beginning August 20, 2014, with a prehearing conference on August 15, 2014.

On August 13, 2014, Student filed a Request for Due Process Hearing in OAH case number 2014080454 (Second Case), naming Oakland.¹

On August 13, 2014, Student filed a Motion to Consolidate the First Case with the Second Case as well as a request to continue the First Case in the event consolidation was not granted.²

On August 13, 2014, Oakland filed a response indicating that it does not object to Student's request for consolidation.

¹ Student's complaint was received after 5:00 p.m. on August 12, 2014, and is therefore deemed filed as of the next business day.

² As this Order grants Student's request to consolidate, Student's alternative request for a continuance is deemed moot.

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

Here, the First Case and Second Case involve common questions of law and fact. Oakland identifies as an issue for hearing whether its 2014 psycho-educational assessment of Student, which determined he was not eligible for special education, met all legal requirements. Oakland contends its assessment was appropriate and that Student is not entitled to an independent educational assessment at public expense. Similarly, Student identifies as an issue for hearing whether Oakland denied him a free appropriate public education during the 2013-2014 school year when it failed to find him eligible for special education and failed to offer an appropriate educational placement and related services. Student contends he is entitled to an independent educational assessment. Student additionally alleges Oakland violated its child find obligations, significantly impeded Parent's participatory rights by failing to provide a full copy of Student's education record, and failed to timely convene an individualized education program team meeting to review the January 2014 psycho-educational assessment.

These cases present overlapping issues regarding the appropriateness of Oakland's 2014 psycho-educational assessment of Student, and whether Oakland denied Student a free appropriate public education when it failed to find him eligible for special education. Consolidation, therefore, is warranted and will prevent the risk of inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve introduction of the same or similar documents including relevant assessment reports. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the Second Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014050059, the First Case, are vacated.
3. The consolidated cases shall now be heard on the dates set for the Second Case, OAH Case Number 2014080454.
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 2014080454, the Second Case.

DATE: August 14, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings