

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2014110459

v.

MANTECA UNIFIED SCHOOL DISTRICT,

MANTECA UNIFIED SCHOOL DISTRICT,

OAH Case No. 2014110122

v.

ORDER GRANTING MOTION TO
CONSOLIDATE

PARENTS ON BEHALF OF STUDENT.

On October 31, 2014, Manteca Unified School District filed a Request for Due Process Hearing, with the Office of Administrative Hearings in OAH Case Number 2014110122 (Manteca's Case), naming the Parents on behalf of Student.

On November 8, 2014, Parent, on behalf of Student, filed a Request for Due Process Hearing in OAH Case Number 2014110459 (Student's Case) against Manteca.

Concurrent with Student's due process hearing request, Student filed a motion to consolidate his case with Manteca's Case. On November 10, 2014, Manteca filed a notice of non-opposition to Student's motion to consolidate the cases.

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 cases that involve: 1) a common question of law and/or fact; 2) the same parties; and 3) when consolidation of the matters will further 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].)

Manteca's Case raises the issue of whether the individualized educational program offer, contained in the September 5 and September 15, 2014 IEP's, provides Student with a free appropriate public education in the least restrictive setting.

Student's Case raises eight issues. Specifically, Student alleges that Manteca denied him a FAPE: 1) by failing to conduct required occupational therapy and assistive technology assessments of Student during the 2012-2013 and 2013-2014 school years, and failing to timely conduct a behavior assessment of Student during the 2013-2014 school year; 2) by failing to develop goals for him in all areas of needs during the 2012-2013 school year; 3) by violating his parents' rights to meaningfully participate in the IEP process during the 2013-2013 and 2013-2014 school years; 4) by failing to offer appropriate services to address his reading, occupational therapy, speech and language, and social skills needs, and failure to provide him with a one-to-one aide, during the 2012-2013, 2013-2014, and 2014-2015 school years; 5) by failing to offer him placement in the least restrictive setting during the 2012-2013, and 2013-2014 school years; 6) by failing to appropriately implement his IEP regarding mainstreaming during the 2013-2014 school year; 7) by failing to timely and/or appropriately hold the September 15, 2014 IEP team meeting; and 8) by predetermining the September 5, 2014 IEP offer.

The two cases involve the same parties, and cover the same or similar issues and timelines. The cases present common questions of law and fact, and both relate to Student's right to a FAPE and Manteca's obligation to ensure that Student receives a FAPE. Resolving the two cases would involve same or similar evidence and witnesses, and will involve the evaluation of common questions of law and fact. Consolidating the cases will promote judicial economy and prevent inconsistent rulings. Accordingly, consolidation of the two cases is appropriate.

ORDER

1. Student's motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2014110122 (Manteca's 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 OAH Case Number 2014110459 (Student's Case).

4. The dates set in Student's Case are contained in a scheduling order issued November 14, 2014, and are confirmed.

DATE: November 14, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings