

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2014120106

v.

CHICO UNIFIED SCHOOL DISTRICT.

CHICO UNIFIED SCHOOL DISTRICT ,

OAH Case No. 2015030830

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 19, 2014, attorney Annie Cox, on behalf of Student, filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2014120106 (First Case), naming Chico Unified School District. On March 8, 2015, Student filed a Motion to Amend Due Process Complaint. On March 12, 2015, Student's Motion to Amend was granted and the amended complaint was deemed filed on March 12, 2015 and the timelines were reset. On March 17, 2015, the parties' joint request for continuance in the First Case was granted. The hearing in that matter is scheduled for May 26, 2015 through May 28, 2015.

On March 17, 2015, attorneys Paul Gant and Kristin Lindgren, on behalf of Chico, filed a Request for Due Process Hearing in OAH Case Number 2015030830 (Second Case), naming Student. On March 25, 2015, Student filed a Motion to Consolidate the First Case with the Second Case. On March 27, 2015, Chico filed a Non-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 multiple procedural and substantive violations on the part of Chico, including that Chico denied Student a free appropriate public education by failing to find Student eligible for special education at the individualized education program team meeting on February 27, 2015. The Second Case alleges that Chico's Academic Achievement, Health, Intellectual Development, Language/Speech Communication Development, Motor Development/Occupational Therapy, Social/Emotional, Adaptive Behavior, and Behavior assessments met all legal requirements such that Student is not entitled to independent education evaluations in those areas at Chico's expense. According to the complaints in both cases, the IEP team utilized those assessments, at least in part, to determine that Student was not eligible for special education at that the February 27, 2015 IEP team meeting. Therefore, the First Case and Second Case involve a common question of law or fact.

In addition, consolidation furthers the interests of judicial economy because the commonality of legal and 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 2015030830 (Second 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 amended complaint in OAH Case Number 2014120106 (First Case).
4. The case shall proceed to hearing according to the dates currently set in the First Case.

DATE: March 27, 2015

/s/
B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings