BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. BALDWIN PARK UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014041006 (Primary)
BALDWIN PARK UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014030809 ORDER GRANTING MOTION TO CONSOLIDATE, VACATING DATES IN DISTRICT'S CASE AND RESETTING HEARING DATES

On March 21, 2014, Baldwin Park Unified School District (District) filed a Request for Due Process Hearing in OAH case number 2014030809 (District's Case), naming Parent on Student's behalf (Parent). The matter is set for hearing on May 6-8, 2014.

On April 23, 2014 Parent filed a Request for Due Process Hearing in OAH case number 2014041006 (Student's Case), naming District.

On April 25, 2014, Student filed a Motion to Consolidate the District's Case with the Student's Case. District filed a response on April 28, 2014, agreeing to consolidation only if the hearing dates set for District's Case, were not changed.

APPLICABLE LAW AND DISCUSSION

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, District's Case alleges and seeks a finding that the placement offer in Student's May 2013 individualized education program (IEP) was appropriate. District also alleges that Parent consented to all portions of the IEP except placement, extended school year and transportation services. District seeks, as a remedy, an order permitting District to implement the entire IEP for the remainder of the 2013-2014 school year. As a result, District must establish that the entire IEP offer constituted a free appropriate public education (FAPE).

Student's Case challenges the May 2013 IEP on several bases, including the placement offer. Student contends the IEP did not offer a FAPE. As such, the two complaints consist of common questions of law and fact, involve the same parties, and many of the same witnesses and other evidence. Additionally, the two complaints were filed within one month of each other, and shortly after Parent retained legal counsel. For all of these reasons, consolidation will further the interests of judicial economy and therefore consolidation is granted.

Request for Continuance

Student's request for consolidation is deemed to include a request to continue the hearing dates in District's Case. District agreed to consolidation only if its May 6-8, 2014 hearing dates were confirmed. However, Student is entitled to a resolution session in Student's Case and therefore consolidation cannot be conditioned on a waiver of the resolution period absent consent in writing by both parties. (34 C.F.R. §300.510 (a)(3) (2006 ed.).) A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Here, Student has established good cause to continue District's Case to allow it the opportunity to participate in a resolution session in Student's case, and no evidence has been offered that the parties waived that right in writing. Therefore, the dates in District's Case will be vacated and reset in accordance with the scheduling order in Student's Case, which will be the primary case.

ORDER

1. Student's Motion to Consolidate is granted.

2. Student's Motion to continue the hearing dates in District's Case is granted. All hearing dates previously set in OAH Case Number 2014030809 [District's Case] are vacated.

3. The April 30, 2014 mediation scheduled in District's Case is confirmed, unless the parties notify the Office of Administrative Hearings to the contrary.

4. The consolidated cases shall be set for hearing in accordance with the scheduling order issued in OAH Case Number 2014041006 [Student's Case].

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 complaint in OAH Case Number 2014041006 [Student's Case]. Student's case shall be primary.

DATE: April 28, 2014

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings