BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2014080831
PARENTS ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2014120055 ORDER AFTER PREHEARING CONFERENCE GRANTING CONSOLIDATION AND CONTINUANCE AND SETTING NEW DATES

On December 1, 2014, a telephonic prehearing conference in OAH Case Number 2014080831 was held before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings. Attorney Sarah L. Garcia appeared on behalf of the Sacramento City Unified School District. Attorney Letecia N. Whetstone appeared on behalf of Student and Parents. The conference was recorded.

1. Motion for Consolidation: During the PHC, Student's motion for consolidation was discussed. On August 25, 2014, Sacramento filed a request for a due process hearing (complaint) with OAH naming Student, and bearing OAH Case Number 2014080831 (Sacramento's case). On September 5, 2014, OAH granted a continuance of that matter. Sacramento's case is set for a due process hearing to begin on December 9, 2014.

On November 21, 2014, Student filed a complaint naming Sacramento (Student's case). On the same date, Student filed a motion to consolidate her case with Sacramento's case.[1] On November 24, 2014, Sacramento filed a response supporting the motion. On December 2, 2014, after the PHC, OAH designated Student's case as OAH Case Number 2014120055, and issued a scheduling order setting the matter for a due process hearing to begin on January 15, 2015.

[1] In the future, Student should independently file new complaints and not merely attach them as exhibits to other motions.

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, Sacramento's case and Student's case involve common questions of law or fact and consolidation furthers the interests of judicial economy because many of the witnesses and documents regarding these intertwined issues will be the same. For these reasons, Sacramento supports the motion. Accordingly, consolidation of Sacramento's case with Student's case is granted.

2. Continuance: Since the motion to consolidate the cases is granted, a continuance of Sacramento's hearing dates is necessary to accommodate the legal requirements for a resolution session in Student's case during the initial 30 days after the filing of her case. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510 (a)(1).) 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), and 56505, subd. (f)(1)(C)(3).)

Here, the parties agreed during the PHC that the resolution session requirements constituted cause to continue the matter. [2] In addition, based on discussion with the parties and consideration of all relevant schedules, the parties consented to mutually agreeable dates in January and February 2015, as ordered below. Accordingly, all dates currently set in both Sacramento's case and Student's case are vacated and continued.

3. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purpose of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

4. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the next prehearing conference.

5. Settlement: The dates ordered below will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of a signed settlement

[2] However, the parties failed to meet and confer prior to the PHC to discuss continued dates even though they understood a continuance would be necessary as part of the consolidation process.

agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the matter and set a telephonic status conference call following the date anticipated for board approval. The parties shall otherwise plan to attend the scheduled prehearing conference and the hearing unless different arrangements have been agreed upon by the assigned ALJ, or as ordered by OAH.

ORDER

1. Student's motion to consolidate is granted.
2. The due process hearing dates previously set in both OAH Case No. 2014080831 (Sacramento's case) and OAH Case No. 2014120055 (Student's case) are vacated and continued.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be controlled by Student's case in OAH Case Number 2014120055.[3]
4. The consolidated cases shall proceed on the following continued dates:

Mediation	January 8, 2015, at 9:30 a.m.
Prehearing Conference:	January 23, 2015, at 10:00 a.m.
Hearing:	February 3, 2015, at 9:30 a.m., February 4, 5, 10, and 11, 2015, at 9:00 a.m., and thereafter day to day, Monday through Thursday as needed in the discretion of the ALJ.

DATE: December 3, 2014

/S/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

[3] During the PHC. the ALJ designated Sacramento's case as the primary case for purposes of the statutory timeline as it had already been scheduled and continued. However, since OAH has now issued a scheduling order in Student's case, and those dates are herewith continued, Student's case, as the later case, is appropriately designated as the primary case for purposes of the applicable timelines.