

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

|                                      |                                                                      |
|--------------------------------------|----------------------------------------------------------------------|
| In the Consolidated Matters of:      |                                                                      |
| LIVE OAK ELEMENTARY SCHOOL DISTRICT, | OAH CASE NO. 2013090049                                              |
| v.                                   |                                                                      |
| PARENT ON BEHALF OF STUDENT.         |                                                                      |
| <hr/>                                |                                                                      |
| PARENT ON BEHALF OF STUDENT          | OAH CASE NO. 2013060082                                              |
| v.                                   |                                                                      |
| LIVE OAK ELEMENTARY SCHOOL DISTRICT, | ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE |

On May 31, 2013, Parent on behalf of Student (Student) filed a request for due process hearing (complaint) in Office of Administrative Hearings (OAH) case number 2013060082 (First Case), naming Live Oak Elementary School District (District). On June 13, 2013, Student filed an amended complaint.

On August 28, 2013, the District filed a request for due process hearing in OAH case number 2013090049 (Second Case), naming Student.

On August 28, 2013, the District filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in the second case (Case Number 2013090049), to match the dates already set in the First Case (case number 2013060082).

OAH has not received any response to the District's motion to consolidate.

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, the First Case and Second Case involve common questions of law or fact, specifically, the appropriateness of the District's actions regarding its assessments and June IEP meeting(s). Many of the same witnesses will testify in both cases. Consolidation will further the interests of judicial economy and prevent the possibility of inconsistent verdicts. Accordingly, consolidation is granted.

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).)

The First Case (the case Student filed) has already been continued once and is now set for hearing in October. The District requests that the hearing and PHC set in September in the Second Case be continued to allow those dates to match the dates in the First Case. Good cause exists for a continuance.

#### ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013090049 (Second Case) are vacated.
3. The District's Motion to Continue the Second Case is granted. All hearing and prehearing conference dates shall be continued to the dates currently set in the First Case. Those dates are: Prehearing Conference on October 7, 2013, at 1:00 p.m., and hearing on October 15 – 17, 2013, and continuing thereafter day to day, Monday through Thursday as needed at the discretion of the Administrative Law Judge.
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 2013090049 (Second Case).

Dated: September 5, 2013

/s/

---

SUSAN RUFF  
Administrative Law Judge  
Office of Administrative Hearings