

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

V.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014040269

ORDER FOLLOWING PREHEARING
CONFERENCE AND
CONSOLIDATING MATTERS

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014050692

On June 2, 2014, a recorded, telephonic prehearing conference (PHC) in OAH Case No. 2014050692 was held before Administrative Law Judge (ALJ) Elsa H. Jones, Office of Administrative Hearings (OAH). Lauri A. Arrowsmith, Attorney at Law, appeared on behalf of the Los Angeles Unified School District (District). There was no appearance by Parent, on behalf of Student. Parent is self-represented, and the ALJ made two separate telephonic attempts to obtain Parent's appearance. During each such attempt, Miguel Rojas, Spanish interpreter, left voicemail messages in Spanish for Parent. Mr. Rojas remained on the telephone during the PHC, in the event that Parent decided to participate.

Based on discussion with District's counsel, the ALJ issues the following Order:

1. Consolidation. On April 4, 2014, Parent on behalf of Student filed a request for due process hearing in OAH Case No. 2014040269 (First Case), naming the District. On May 14, 2014, District filed this request for due process hearing (OAH Case No. 2014050692) (Second Case).

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 the Second Case involve common questions of law and fact, specifically whether the District provided appropriate occupational therapy services to Student so as to meet Student's needs. As part of his remedy in the First Case, Student seeks an independent occupational therapy evaluation; in the Second Case, District seeks an order that its occupational therapy evaluation was appropriate, and that Student is not entitled to an independent occupational therapy evaluation. Accordingly, the ALJ, on her own motion, over the District's objection, orders the First Case and the Second Case consolidated. (Gov. Code, § 11507.3, subd. (a).)

2. Mediation, PHC, and Hearing Dates. The Second Case is continued, and all dates currently set in the Second Case are vacated. The mediation, PHC, and hearing dates in these consolidated cases shall be those that are currently set in the First Case, except that an additional hearing day shall be added, as follows:

Mediation: August 19, 2014, at 9:00 a.m.

Telephonic PHC: September 19, 2014, at 10:00 a.m. OAH will initiate the conference call.

Due Process Hearing: September 29-October 2, 2014, and continuing day to day thereafter, Monday through Thursday as needed, at the discretion of the Administrative Law Judge. The first day of hearing shall commence at 1:30 p.m.; all other days shall commence at 9:00 a.m., unless otherwise ordered.

3. Decision Timeline. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the filing date in OAH Case Number 2014040269 (First Case).

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall inform OAH of the settlement by telephone at (916) 263-0880.

IT IS SO ORDERED.

DATE: June 4, 2014

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings