

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014070712 (PRIMARY)
v.	
BEVERLY HILLS UNIFIED SCHOOL DISTRICT,	
BEVERLY HILLS UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014080460
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING DISTRICT MOTION TO CONSOLIDATE AND GRANTING DISTRICT'S MOTION TO CONTINUE DUE PROCESS HEARING

On July 11, 2014, Mother on behalf of Student filed a Request for Due Process Hearing in OAH case number 2014070712 (Student's Case), naming Beverly Hills Unified School District.

On August 12, 2014, District filed a Request for Due Process Hearing in OAH case number 2014080460 (District's Case), naming Student.

On August 13, 2014, District filed a Motion to Consolidate Student's Case with District's Case, and to continue the due process dates for the consolidated cases to the dates for hearing in District's case. Student did not file a response to the motion.

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, Student's Case and District's Case involve the same parties and a common question of law or fact. Specifically, Student contends, among other things, that District's offer in Student's May 2014 individualized education program: (1) denied Student a free appropriate public education in the least restrictive environment by offering Student placement in special education classes for all classes except art and physical education; and (2) denied Student a FAPE by modifying Student's curriculum and placing Student on track for a certificate of completion instead of a regular high school diploma for the 2014-2015 school year. District's Case seeks a determination that District's May 2014 IEP offered Student a FAPE in the least restrictive environment, and requests relief that District would not receive in Student's case even if District prevailed; namely, an order that District may implement Student's May 2014 IEP offer over Parent's objection. The above issues will involve the same facts, witnesses and documents, and consolidation furthers the interests of judicial economy by avoiding two hearings between the parties in which they would present the same evidence. Accordingly, consolidation is granted.

Continuance

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).)

Student's case is currently set for hearing on August 19-21, 2014. District's unopposed motion to continue the hearing in the consolidated matters by 16 days to the hearing date set for District's case demonstrates good cause for a continuance, to allow the parties to complete mediation in District's case and prepare the consolidated matters for an orderly hearing.

ORDER

1. District's Motion to Consolidate is granted.
2. Student's Case number 2014070712 is designated as the primary case in the consolidated matters, and all future pleadings and other documents in the consolidated matters are to be maintained in that case file.
3. All dates previously set in Student's Case, OAH Case Number 2014070712, are vacated.
4. District's Motion to Continue is granted for good cause. The consolidated matters are continued, and shall be set as follows:

Mediation: August 26, 2014 at 9:30 a.m.

Prehearing Conference: August 29, 2014 at 1:00 p.m. The parties shall file prehearing conference statements on the consolidated issues not later than three business days before the PHC.

Due Process Hearing: September 4, 2014, from 9:30 a.m. to 4:30 p.m., and September 5 and 9, 2014, from 9:00 a.m. to 4:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge, unless otherwise ordered.

5. The 45-day timeline for issuance of the decision in the consolidated matters shall be based on the July 11, 2014 filing date for Student's amended complaint in Student's Case No. 20140707122, and on the continuance granted as of the date of this Order.

DATE: August 18, 2014

/s/
ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings