

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014080304
v.	[Primary Case]
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	OAH CASE NO. 2014030618
v.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE DISTRICT'S CASE
PARENT ON BEHALF OF STUDENT.	

On March 17, 2014, Panama-Buena Vista Union School District (District) filed a Request for Due Process Hearing in OAH case number 2014030618 (District's Case), naming Parent on Student's behalf (Student). District's case identified a single issue, specifically whether District appropriately conducted a speech and language assessment of Student such that Student was not entitled to an individualized educational evaluation. District's case is set for hearing on August 19, 2014.

On August 7, 2014, Student filed a Request for Due Process Hearing in OAH case number 2014080304 (Student's Case), naming District. Student's issues include the issue of whether Student is entitled to an independent educational evaluation in the area of speech and language. Student's complaint also challenges District's finding that Student is not eligible for special education services.

On August 8, 2014, the parties jointly filed a Motion Consolidate District's Case with Student's Case and to continue the due process hearing date set in District's Case to dates consistent with the scheduling order in Student's Case.

Also on August 8, 2014, the undersigned ALJ held a prehearing conference in District's Case, heard oral argument on the parties' request for consolidation and continuance, and took the matter under submission.

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 and Student's Case involve a common question of law or fact, specifically whether District's speech and language assessment was appropriate or whether Student is entitled to an independent educational evaluation in speech and language. Student's case also challenges District's findings that Student is not eligible for special education services, the result of which may impact any remedy that might be awarded in District's case. Accordingly, consolidation furthers the interests of judicial economy and 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).)

The parties have requested that the dates in District's Case be vacated and that the consolidated matters be set for mediation and hearing consistent with the dates set in Student's Case. The parties have demonstrated good cause to continue the matters to allow the parties to proceed to mediation on the consolidated cases. The parties' motion to continue the hearing in Second Case is granted. The Second Case is designated the primary matter and 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 Student's Case, OAH Case Number 2014080304.

ORDER

1. The parties' Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014030618 [District's Case] are vacated. 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 Student's Case, OAH Case Number 2014080304.

3. The parties' Motion to Continue and reset the dates in the consolidated matters is granted. The consolidated matters shall be set as follows:

Mediation: September 11, 2014 at 9:30 a.m.

Prehearing conference: September 22, 2014 at 3:00 p.m.

Due Process Hearing: October 1, 2014 at 9:30 a.m., and continuing day to day, Monday through Thursday as needed at the discretion of the Administrative Law Judge.

DATE: August 11, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings