

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014090268

v.

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT & NEWPORT-MESA
UNIFIED SCHOOL DISTRICT,

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT,

OAH CASE NO. 2014090535

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND RESET DATES

On September 3, 2014, Parents on Student's behalf filed a Request for Due Process Hearing in OAH case number 2014090268 (Student's Case), naming Huntington Beach Union High School District (Huntington Beach) and Newport-Mesa Unified School District (Newport-Mesa). On September 11, 2014, Huntington Beach filed a Request for Due Process Hearing in OAH case number 2014090535 (District's Case), naming Parents on Student's behalf.

On September 22, 2014, the three named parties filed a joint stipulation to consolidate Student's Case and District's Case, to vacate hearing dates in District's case, and to reset the hearing dates in the consolidated matter consistent with dates set in Student's case. The Stipulation will be considered an unopposed motion to consolidate.

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 a common question of law or fact. Specifically, both Student and Huntington Beach are seeking a finding as to whether Huntington Beach appropriately assessed Student during the spring of 2014 in the areas of

cognitive, behavioral, social-emotional and mental health. Student's case includes additional issues involving whether Huntington Beach and Newport-Mesa timely and appropriately assessed Student for eligibility for special education services and supports, and whether the services and supports offered by Huntington Beach constituted a free appropriate public education. Consolidation furthers the interests of judicial economy because both complaints include common issues of law and fact, and will require the same witnesses and documentary evidence. Additionally, Newport-Mesa does not object to consolidation. 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).) Here the parties have requested that the dates in District's Case be vacated, and that the mediation and hearing in the consolidated matters be continued and reset based on the September 9, 2014 Scheduling Order issued in Student's Case. The parties' request is granted.

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014090535 [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 2014090268.
3. The consolidated matters shall be set as follows:

Mediation: October 8, 2014 at 9:30 a.m.
Prehearing conference: October 20, 2014 at 1:00 p.m.
Due Process Hearing: October 28, 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: September 22, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings