

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

RIALTO UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014090903 (Primary)

PARENT ON BEHALF OF STUDENT,

v.

RIALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014040978
(Secondary)

ORDER FOLLOWING PREHEARING
CONFERENCE

On September 26, 2014, a telephonic prehearing conference was held before Administrative Law Judge Alexa J. Hohensee, Office of Administrative Hearings. Michael J. Smith, Attorney at Law, appeared on behalf of Student. Vivian E. Billups, Attorney at Law, appeared on behalf of Rialto Unified School District. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following order:

1. Consolidation and Continuance. On April 21, 2014, Student filed a due process hearing request naming District as respondent, OAH Case No. 2014040978 (Student's Case). On September 25, 2014, District filed a due process hearing request naming Student, OAH Case No. 2014090903 (District Case), and a motion to consolidate the two cases. Student did not oppose the motion. 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).) Both cases involve a common question of law or fact and consolidation furthers the interests of judicial economy because the same witnesses and evidence will be presented in both cases on the issue of whether Student received a free appropriate public education from April 2012 through April 2014. Accordingly, consolidation is granted.

The parties jointly requested that the PHC and hearing dates be continued to mutually agreed dates, and that mediation be scheduled. 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 seek an opportunity to mediate these consolidated matters in light of District's case being recently filed, and they have stipulated to mutually agreeable dates in the near future. Therefore, the continuance is granted.

2. Motion to Dismiss Non-IDEA claims. District moved to dismiss Student's claims brought under Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act and the California Unruh Civil Rights Act. Student did not oppose the motion. OAH jurisdiction extends to determining if a student with a disability has received a FAPE under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) OAH does not have jurisdiction over claims raised under other statutes. Accordingly, the motion to dismiss those claims is granted.

ORDER

1. The District's motion to consolidate is granted. OAH Case No. 2014090903 (District's Case) is designated as the primary case, and all documents shall be filed under that case number.
2. District's motion to dismiss Student's non-IDEA claims is granted.
2. The joint request for continuance is granted. All dates previously set in OAH Case No. 2014040978 (Student's Case) and OAH Case No. 2014090903 are vacated. The dates in these consolidated cases shall be as follows:

Mediation:	October 15, 2014 at 9:30 AM
Prehearing Conference:	November 7, 2014 at 10:00 AM
Due Process Hearing:	November 17-20, 2014, at 1:30 PM first day, 9:00 AM after, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the due process hearing request in OAH Case No. 2014090903 (District's Case).

DATE: September 29, 2014

/s/
ALEXA HOHENSEE
Administrative Law Judge
Office of Administrative Hearings