

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT,

OAH Case No. 2014120518 (Primary)

ANTIOCH UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015020258

ORDER GRANTING MOTION TO
CONSOLIDATE, VACATING AND
CONTINUING DATES IN DISTRICT'S
CASE, AND SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On December 5, 2014, Parent on Student's behalf filed a Request for Due Process Hearing in OAH case number 2014120518, naming Antioch Unified School District (Student's Case). The due process hearing in Student's Case was continued following mediation on January 9, 2015.

On February 4, 2015, Antioch Unified School District filed a Request for Due Process Hearing in OAH case number 2015020258 (District's Case), naming Parent on Student's behalf.

On February 4, 2015, District filed a Motion to Consolidate Student's Case with the District's Case. District's request to consolidate can be construed as a motion to continue District's case to the dates established in Student's case, as any other outcome would require the dates in Student's case to be advanced. OAH did not receive a response from Student.

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, both Student's Case and District's case involve common issues of law and fact. Specifically, both cases seek a finding as to whether District offered Student a free appropriate public education in offers from May 2014 through December 2014. The issues involve similar facts, some of the same witnesses, and common issues of law. Accordingly, consolidation is granted.

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 set for hearing on April 21, 2015. Mediation in District's Case is set for February 19, 2015, the prehearing conference for February 23, 2015 and the due process hearing for March 3, 2015. Here, District is seeking to have its hearing continued to the dates in Student's case. Accordingly, the prehearing conference and due process hearing dates in District's case will be vacated and continued and the consolidated matters shall proceed to hearing as set in Student's case, unless otherwise ordered. The mediation in District's Case will remain as scheduled.

ORDER

1. District's Motion to Consolidate is granted.
2. The mediation date of February 19, 2015, previously set in OAH Case Number 2015020258 [District's Case] is confirmed; the prehearing conference and due process hearing dates in District's Case are vacated and continued.
3. The consolidated cases shall be heard on the dates set in Student's case and specifically: Prehearing Conference: April 13, 2015 at 1:00 p.m.; and Due Process Hearing on April 21, 2015, at 9:30 a.m., and continuing day to day Monday through Thursday, as determined by the hearing judge, unless otherwise ordered.
4. 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 OAH Case Number 2014120518 [Student's Case].

DATE: February 11, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge

