

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT, ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 201502067

PARENT, ON BEHALF OF STUDENT.

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2014100174

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUE

On October 1, 2014, parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2014100174 (First Case), naming Los Angeles Unified School District.

On February 9, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015020671 (Second Case), naming District.

On February 9, 2015, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in the First Case to the dates set for the Second Case.

District did not file a response to 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) [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, the First Case and Second Case involve a common question of law or fact, specifically, Student's eligibility for special education services. Student initially alleged that District has failed its child find obligations and has now complained that District has failed to conduct any assessment of Student despite holding obtained parent's consent to an assessment plan for nearly four months. In addition, consolidation furthers the interests of judicial economy because the issues in each petition are interdependent and the witnesses identified by District are likely to be called at both hearings. Lastly, District does not oppose the motion. 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 motion to continue the hearing demonstrates good cause for a continuance, based on the considerations of judicial economy; hearing the cases together will prevent multiplication of similar actions and reduce the burden upon the witnesses to be called.

ORDER

1. The motions to consolidate are GRANTED.
2. All dates previously set in OAH Case No. 2014100174 (First Case) are vacated. A continuance is GRANTED in that case for all dates as set forth below.
3. The dates set in OAH Case No. 2015020671 (Second Case) shall be effective for the consolidated case. Pursuant to the Order issued February 13, 2015, Mediation is scheduled for 9:00 a.m. on March 17, 2015, the Prehearing conference for March 30, 2015, at 3:00 p.m., and the Hearing will be held on April 7, 2015, beginning at 9:30 a.m. and continuing day to day thereafter at the discretion of the administrative law judge.
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 2015020671.

DATE: February 18, 2015

/s/

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings