

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015020894
v.	
GARVEY SCHOOL DISTRICT,	
GARVEY SCHOOL DISTRICT,	OAH Case No. 2015020713
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On February 12, 2015, Garvey Unified School District filed a request for due process hearing in OAH case number 2015020713 (District's Case), naming Student.

On February 19, 2015, Parent on behalf of Student filed a request for due process hearing in OAH case number 2015020894, (Student's Case), naming District.

On February 18, 2015, Student filed a motion in both cases to consolidate the Student's Case with the District's Case, and to continue the hearing dates in both matters to a date to be determined by OAH. On February 20, 2015, District filed a non-opposition in both cases, also requesting that the currently scheduled dates be vacated. Neither party offered proposed hearing dates, such that OAH assumes the parties are available on any dates set by OAH.

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 common questions of law or fact, specifically, whether District denied Student a free appropriate education by failing to appropriately assess Student in the areas of psychoeducational, speech and language and occupational therapy in October 2013.

Consolidation furthers the interest of judicial economy because the same witnesses and evidence will be presented in both cases on the issues of whether District appropriately assessed Student in the designated areas. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately.

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).)

This is the party's first request for a continuance. OAH will continue a hearing for up to 90 days from the initial hearing date upon an agreement of the parties. Here, Student's request for new hearing dates and District's request that the current dates be vacated constitute an agreement of the parties to continue these matters upon consolidation and extend the timeline for issuance of a decision. The parties' failure to include proposed dates indicates that the parties and their counsel are available for hearing at any time within 90 days from the initial hearing date.

ORDER

1. Student's motion to consolidate is granted.
2. Student's Case, OAH case number 2015020894, is designated as the primary case and shall be used for filing all documents in these consolidated matters.
3. Student's motion to continue both cases is granted.
4. The mediation date in District's Case shall be continued to the currently scheduled mediation date in Student's Case, March 26, 2015. The mediation date in Student's Case is confirmed.
5. The prehearing conference and hearing dates previously set both cases are vacated. The parties shall participate in a prehearing conference on the consolidated cases at 10:00 a.m. on July 6, 2015. OAH will initiate the call. The due process hearing on the consolidated cases shall be held on July 13-16, 2015, at 1:30 p.m. on the first day and 9:00 a.m. thereafter.

6. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's Case.

DATE: February 23, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings