

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

FOLSOM CORDOVA UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014121009

PARENTS ON BEHALF OF STUDENT,

v.

FOLSOM CORDOVA UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015010431

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On December 24, 2014, the Folsom Cordova Unified School District filed a Request for Due Process Hearing in Office of Administrative Hearings case number 2014121009 (First Case), naming Parents and Student. On January 5, 2015, OAH granted Student's motion for a continuance of the First Case. It is now set for a prehearing conference on April 3, 2015, and a due process hearing on April 14 and 15, 2015 (and thereafter day to day as needed and at the discretion of the Administrative Law Judge).

On January 9, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015010431 (Second Case), naming Folsom Cordova. The Second Case is set for a prehearing conference on February 27, 2015, and a due process hearing beginning on March 5, 2015.

On January 20, 2015, the parties filed a joint stipulation to consolidate the cases, continue Student's case to the dates set in the First Case for Folsom Cordova, and add two more hearing dates on April 21 and 22, 2015. The joint stipulation is deemed to be a motion.

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, the First Case and Second Case involve common questions of law or fact as to Folsom Cordova's 2014 request to assess Student in specified areas related to his suspected disabilities, and the adequacy of both Folsom Cordova's and Student's private prior assessments. In addition, Student's complaint claims that, beginning with the 2012-2013 school year, Folsom Cordova procedurally and substantively denied Student a free appropriate public education in specified ways, including failing to implement components of his individualized education programs; failing to provide adequate annual goals, including transition goals; predetermining his placement; and failing to timely respond to Student's request for an independent educational evaluation. The interests of judicial economy and efficiency support consolidation in these circumstances. Accordingly, the motion for consolidation of the First Case and the Second Case 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).)

Since the parties' motion for consolidation is granted, their motion to continue the hearing dates in the Second Case is based on good cause. The consolidated matter should be heard on consecutive hearing dates. As a result, the request of the parties to schedule the hearing for only two days of hearing per week, on April 14, 15, 21, and 22, 2015, is without justification and is denied. OAH shall schedule this hearing to be conducted from day to day, Monday through Thursday, beginning on Monday, April 13, 2015, as ordered below.

ORDER

1. The joint motion to consolidate is granted.
2. The joint motion to continue Student's case is granted and all dates previously set in OAH Case Number 2015010431 (Second Case) are vacated.
3. This consolidated matter will proceed to hearing as follows: a mandatory telephonic prehearing conference on April 3, 2015, at 10:00 a.m.; and a due process hearing on Monday, April 13, 2015, at 1:30 p.m.; and on April 14, 15, and

16, 2015, at 9:00 a.m. The hearing may continue thereafter, day to day, as needed and at the discretion of the ALJ.¹

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 Folsom Cordova's case, OAH Case Number 2014121009 (First Case).

DATE: February 23, 2015

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ The parties shall meet and confer regarding the need to add any further days to complete their cases and be prepared to provide such information to the ALJ at the prehearing conference.