

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

SWEETWATER UNION HIGH SCHOOL
DISTRICT,

OAH Case No. 2015010696 (Primary Case)

SWEETWATER UNION HIGH SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014110577 (Secondary
Case)

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

The Sweetwater Union High School District filed a Request for Due Process Hearing on November 14, 2014, in OAH Case No. 2014110577 (District's Case) naming Student. Sweetwater Union seeks a ruling that its assessments of Student were valid such that Sweetwater Union is not obligated to fund independent educational assessments Student has requested.¹

Student filed a Request for Due Process Hearing on January 20, 2015, naming Sweetwater Union. Student raises one issue: whether Sweetwater Union failed to assess him in all areas of suspected disability.

On March 2, 2015, Student filed a motion to consolidate his case with the one filed by Sweetwater Union. Student also filed a motion to continue the consolidated cases until an unspecified date in April 2015. On March 6, 2015, Sweetwater Union filed a notice of non-opposition to Student's motions, with agreement that the hearing on the consolidated matters could be set for April 15 and 16, 2015.

Consolidation

¹ Sweetwater Union's due process request appears also to raise as an issue whether it correctly found Student ineligible for special education. However, the prehearing conference statement Sweetwater Union filed on March 4, 2015, only identifies the issue described above as the issue it has presented for hearing to OAH.

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 Sweetwater Union's case and Student's case involve the assessments conducted by Sweetwater Union. The cases are interrelated. Consolidation therefore furthers the interest of judicial economy by avoiding two hearings on similar issues that will involve many of the same witnesses and evidence.

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 first continuance Student has requested. Sweetwater Union does not oppose the request. Therefore, good cause appearing, Student's motion for continuance is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2015010696 (Student's case) and 2014110577 (Sweetwater Union's case) are vacated
3. Student's Motion to Continue is granted, with dates continued as follows for the consolidated matter:
TELEPHONIC PREHEARING CONFERENCE: April 6, at 3:00 p.m.
DUE PROCESS HEARING: APRIL 13 -16, 2015, starting at 1:30 p.m. on April 13, 2015, and 9:00 a.m. all other days, 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 2015010696 [Student's Case].

DATE: March 9, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings