

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

WALNUT VALLEY UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015010403
[PRIMARY]

WALNUT VALLEY UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015030656

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUING
THE CONSOLIDATED MATTER TO
AGREED DATES

On January 8, 2015, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) in OAH case number 2015010403 naming Walnut Valley Unified School District (Student's Case). Student's complaint alleged various procedural violations of the IDEA and that District denied her a free appropriate public education by failing to address Student's academic needs, consider her medical diagnosis, consider a variety of placement options and provide appropriate placement. The specific events alleged in Student's complaint arose during the 2014-2015 school year. On February 2, 2015, OAH granted the parties' joint request to continue Student's Case to dates requested by the parties. Student's Case is set for Prehearing Conference on April 20, 2015, and Due Process Hearing on April 28, 29 and 30, 2015, and continuing day to day at the discretion of the Administrative Law Judge.

On March 13, 2015, District filed a Request for Due Process Hearing in OAH case number 2015030656 naming Student (District's Case) and a Motion to Consolidate District's Case with Student's Case. The issue alleged in District's complaint was whether an IEP dated January 22, 2015, offered Student a FAPE in the least restrictive environment. District's Case was set for Prehearing Conference on March 30, 2015, and Due Process Hearing on April 6, 2015.

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].)

Student's Case and District's Case involve common questions of law and fact. The facts alleged in both complaints concern the 2014-2015 school year and whether District offered an appropriate placement in the least restrictive environment. Student did not oppose the motion. Consolidation furthers the interests of judicial economy because the cases involve the same witnesses and exhibits and can be heard on the agreed dates. Consolidation will avoid the possibility of inconsistent results. Accordingly, consolidation is granted. OAH case number 2015010403 (Student's Case) is designated the primary case.

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).)

In this case, the parties agreed upon dates for Student's Case. The scheduling order in District's case would result in a Prehearing Conference and a Due Process Hearing before the dates agreed upon and now set. There has been no prior continuance in District's Case. Although District did not specifically request a continuance, a request to continue District's Case to the agreed upon dates in Student's Case, the request is implicit in District's Motion to Consolidate. Therefore, District's Motion to Consolidate is understood to include a motion to continue the consolidated matter to the dates in Student's Case. There is good cause to continue District's Case to the agreed dates.¹

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2015030656 (District's Case) are vacated.
3. District's motion to continue District's Case to the dates set in Student's Case is granted. The Prehearing Conference in the consolidated cases shall be held on

¹ Mediation was held in Student's Case on February 13, 2015. No mediation has been held in District's Case. The parties may request further mediation of the consolidated cases by filing a written request for mediation with OAH.

April 20, 2015, at 1:00 p.m. and the Due Process Hearing in the consolidated cases shall be held on April 28, 29, and 30, 2015, and continuing day to day Monday through Thursday at the discretion of the ALJ.

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 2015010403 (Student's Case).

DATE: March 23, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings