

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

EAST WHITTIER CITY SCHOOL
DISTRICT,

OAH Case No. 2015030657

EAST WHITTIER CITY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015010880

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On January 29, 2015, District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2015010880 (District's Case), naming Student.

On March 13, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015030657 (Student's Case), naming District.

On March 24, 2015, the parties filed a joint Motion to Consolidate and to continue the due process hearing dates.

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, District's Case seeks to demonstrate the appropriateness of a psycho-educational assessment performed in or around February 2014, and Student's Case seeks to

establish that District failed to assess Student in all areas of suspected disability. Thus, the cases involve common questions of law or fact. In addition, consolidation furthers the interests of judicial economy because the witnesses and documentary evidence will overlap. Accordingly, consolidation 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).)

The parties' joint motion to continue the hearing demonstrates good cause for a continuance, and is granted.

ORDER

1. The parties' joint motion to consolidate is granted.
2. Student's Case, OAH case number 2015030657, is designated as the primary case and shall be used for filing all documents in these consolidated matters.
3. The parties' joint request to continue the hearing dates in Student's Case is granted.
4. The prehearing conference and hearing dates previously set in both cases are vacated. The parties shall participate in mediation on April 2, 2015 at 9:30 a.m. The prehearing conference on the consolidated cases shall be at 1:00 p.m.¹ on June 1, 2015. OAH will initiate the call. The due process hearing on the consolidated cases shall be held on June 8-11, 2015, at 1:30 p.m. on the first day and 9:00 a.m. thereafter.
5. 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: March 25, 2015

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings

¹ Note time change to accommodate OAH scheduling policies on the first Monday of the month.