

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015060765 (Primary)
v.	
TEHACHAPI UNIFIED SCHOOL DISTRICT,	
TEHACHAPI UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015050916
v.	
PARENT ON BEHALF OF STUDENT.	ORDER FOLLOWING PREHEARING CONFERENCE; ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On June 19, 2015, a telephonic prehearing conference was held in OAH case number 2015050916 before Administrative Law Judge Cole Dalton, Office of Administrative Hearings. Attorneys Darren Bogié and Stacy Inman appeared on behalf of Tehachapi Unified School District. Special Education Director, Heather Richter, also attended. Attorney Andréa Marcus appeared on behalf of Student. The PHC was recorded.

1. Student's Motion to Consolidate and Request for Continuance

On May 22, 2015, District filed a due process complaint (complaint) naming Parents on Student's behalf in OAH case number 2015050916 (District's Case). On June 17, 2015, Student filed a complaint naming Tehachapi Unified School District in OAH Case Number 2015060765 (Student's Case). On June 17, 2015, Student also filed a motion to consolidate Student's Case with District's case and to continue the consolidated matters. The parties discussed Student's motion at the PHC.

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 and Student's case involve common questions of law and fact because they both involve the appropriateness of District's speech and language and occupational therapy assessments. District seeks to prove that its assessments are appropriate such that Student is not entitled to independent educational evaluations at public expense. Student's complaint seeks to prove that assessments were not appropriate because the assessors neither identified all of Student's unique needs nor recommended appropriate frequency and duration of services.

Both cases involve the same or similar documentary evidence and testimony from the same witnesses. Therefore, consolidation furthers the interests of judicial economy and is appropriate.

Continuance

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.)

Good cause exists to grant the request for continuance. This is the parties' first request for continuance and the parties have agreed to specific dates for hearing that are within a month after the date initially set in Student's Case. Accordingly, the parties' joint request for continuance is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2015050916 [District's Case] are vacated. All dates previously set in OAH case number 2015060765 [Student's Case] are vacated.
3. The parties' joint request to continue the consolidated matters is granted. The consolidated matters shall be set as follows:

Prehearing Conference: August 21, 2015, at 1:00 p.m.

Due Process Hearing: September 2, 2015, at 9:30 a.m., September 3, 2015, at 9:00 a.m., , September 8, 2015 at 1:30 p.m. unless otherwise ordered, September 9 and 10, 2015, at 9:00 a.m., and continuing day to day, Monday through Thursday, as determined by the ALJ. The parties' request for September 7, 2015 cannot be

- accommodated because it is a holiday and OAH is closed on that date. OAH starts hearings on the day after holidays at 1:30 p.m.
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 2015060765 [Student's Case].
 5. All remaining issues shall be addressed at the continued PHC.

DATE: June 19, 2015

/s/
COLE DALTON
Administrative Law Judge
Office of Administrative Hearings