

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015050458
v.	
EAST WHITTIER CITY SCHOOL DISTRICT,	
EAST WHITTIER CITY SCHOOL DISTRICT,	OAH Case No. 2015050713
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE; GRANTING REQUEST FOR CONTINUANCE; SETTING MEDIATION, PREHEARING CONFERENCE AND DUE PROCESS HEARING

On May 1, 2015, Parent on behalf of Student filed a Request for Due Process Hearing in Office of Administrative Hearing case number 2015050458 (Student's Case), naming East Whittier City School District.

On May 19, 2015, District filed a Request for Due Process Hearing in OAH case number 2015050713 (District's Case), naming Student.

On May 28, 2015, the parties jointly filed a Motion to Consolidate Student's Case with District's Case, and to continue the mediation and hearing dates for the consolidated matter.

Request for 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, Student's Case and District's Case involve a common question of law or fact, including similar questions related to Student's education needs and program. Accordingly, consolidation is granted.

Request for 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.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted.

ORDER

1. The parties' Motion to Consolidate is granted.
2. 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 2015050458 (Student's Case).
3. The parties' Motion for a Continuance is granted. Therefore, all dates previously set in OAH case numbers 2015050458 (Student's Case) and 2015050713 (District's Case) are vacated.

4. The matter shall be set as follows:

Mediation:	7/8/2015, at 9:30 a.m.
Prehearing Conference:	8/7/2015, at 10:00 a.m.
Due Process Hearing:	8/18/2015; 8/19/2015; 8/20/2015, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on the first day of hearing, and at 9:00 a.m. on all other days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: June 3, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings