

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060909

ORDER DENYING MOTION TO
CONSOLIDATE AND MOTION TO
CONTINUE

On May 1, 2015, Student filed a Request for Due Process Hearing in Office of Administrative Hearings case number 2015050710 (First Case), naming Los Angeles Unified School District as respondent. On June 11, 2015, OAH granted the parties' Joint Request to Continue the Due Process Hearing to September 8, 2015 through September 10, 2015.

On June 12, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015060909 (Second Case), naming Los Angeles Unified School District as respondent.

On June 25, 2015, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in Case Number 2015060909 (second case) to the dates set for First Case.

Los Angeles has not filed a response to Student's motion.

Motion to Consolidate

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, although the First Case and Second Case involve the same parties, the cases do not involve a common question of law or fact. The First Case alleges that during the 2014-2015 school year Student was denied a free appropriate public education because Los Angeles failed to appropriately address the bullying of Student under the Individuals with

Disabilities Education Act (IDEA) (20 U.S.C. §1400 et. seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et. seq.), Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and Los Angeles's own policies; and by failing to provide Parent with proper written notice in response to Parent's request to change Student's placement. The First Case also alleges that Los Angeles impeded Parent's meaningful participation in the IEP development process by failing to inform Parent of the procedures for filing a written request and for failing to hold an individualized education program team meeting within 30 days of Parent's request. The Second Case involves a single allegation that Los Angeles denied Student a FAPE by impeding Parent's meaningful participation in the IEP development process by failing to provide Student with a speech and language independent educational evaluation upon Parent's request. As the issues and the questions of law involved in the two cases are unrelated, consolidation would not further the interests of judicial economy.

Motion to Continue

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).)

Student requested to consolidate the Second Case with the First Case and to continue the Second Case to the dates set for the First Case. Since Student's Motion to Consolidate has been denied and Student has not demonstrated good cause to continue the Second Case, Student's Motion to Continue is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. Student's Motion to Continue is denied. All dates previously set for hearing in this matter shall remain as scheduled.

DATE: July 7, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings