

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015070377
v.	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015060990
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND CONTINUING STUDENT'S CASE

On June 24, 2015, Los Angeles Unified School District filed a Request for Due Process Hearing in OAH case number 2015060990 (District's Case), naming Student.

On June 30, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015070377 (Student's Case), naming District.

On July 7, 2015, Student filed a Motion to Consolidate Student's Case with District's Case.

On July 8, 2015, the parties filed a joint request for continuance of District's case, and OAH the same day granted the continuance, setting the prehearing conference in District's case for September 4, 2015, and hearing for September 15-17, 2015.

Also on July 8, 2015, Student filed a motion to consolidate Student's case and District's case, and District the same day filed a notice of non-opposition to Student's motion to consolidate the two cases.

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 the same parties and a common question of law or fact. Specifically, District contends that it conducted an assessment of Student's need for physical therapy that was presented at Student's May 19, 2015 individualized education program team meeting, but Student disagreed with the assessment and on May 31, 2015 requested an independent educational evaluation of Student's physical therapy needs. District contends that its assessment was appropriate, and Student therefore is not entitled to an independent educational evaluation at public expense.

Student contends that Student requested the independent physical therapy evaluation as well as an independent functional behavior evaluation on April 29, 2015, and that District's denial of Student's request for an independent physical therapy evaluation is untimely. Student also contends that District's offer of placement and services at Student's May 19, 2015 individualized education program team meeting denied Student a free appropriate public education due to its failure to offer Student an appropriate placement, any behavior intervention therapy, appropriate occupational therapy and speech and language therapy, or support from a preschool kindergarten itinerant teacher.

The above issues will involve the same facts, witnesses and documents, and consolidation furthers the interests of judicial economy by avoiding two hearings between the parties in which they would present the same evidence. 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).)

Student's case is currently set for hearing on August 25, 2015. Good cause exists to continue the hearing of Student's case to the continued dates previously set for District's case, so that the consolidated matters may proceed in an orderly manner on the same dates.

ORDER

1. Student Motion to Consolidate is granted.
2. Student's Case number 2015070377 is designated as the primary case in the consolidated matters, and all future pleadings and other documents in the consolidated matters are to be maintained in that case file.

3. All dates previously set in Student's Case, OAH Case Number 2015070377, are vacated.
4. Student's Case is continued to the continued dates previously set in District's Case. The consolidated matters will proceed together on the same dates, as follows:

Mediation:	None set. The parties may request mediation.
Prehearing Conference:	September 4, 2015 at 10:00 a.m.
Due Process Hearing:	September 15 – 17, 2015. The hearing will begin at 9:30 a.m. on September 15 and at 9:00 a.m. on all subsequent days.
5. The 45-day timeline for issuance of the decision in the consolidated matters shall be based on the June 30, 2015 filing date for Student's amended complaint in Student's Case number 2015070377, and on the continuance granted as of the date of this Order.

DATE: July 13, 2015

/s/
ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings