

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015110631 (Primary)
v.	
POWAY UNIFIED SCHOOL DISTRICT,	
POWAY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015090044
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On August 27, 2015, Poway Unified School District filed a Request for Due Process Hearing, with the Office of Administrative Hearings in OAH case number 2015090044, naming Parent on Student's behalf (District's Case). On November 16, 2015, Parent on Student's behalf filed a Request for Due Process Hearing in OAH case number 2015110631 naming District (Student's Case). On November 20, 2015, the parties filed a stipulated motion to consolidate Student's Case with District's Case, and requested a continuance in the consolidated matters.

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 an order finding that its proposed individualized education plan for Student dated February 24, 2015 as amended through August 21, 2015 is an offer of a free appropriate public education in the least restrictive environment such that District may implement the IEP over parental objection. Student's Case challenges the February 24, 2015 IEP offer, as amended, on both procedural and substantive grounds. District's Case and

Student's Case involve common questions of law or fact as to the appropriateness of District's offer of FAPE culminating on August 21, 2015. Consolidation furthers the interests of judicial economy because the two cases will involve the same witnesses and documentary 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).)

Here, the parties have stipulated to continue the consolidated matters for several reasons. First, the parties assert that they have reached an interim settlement agreement involving future assessments which may assist them in resolving both matters. An interim agreement is not, by itself, a basis for good cause to continue the consolidated matters, which involve issues arising before the parties reached an interim agreement. However, Student's Case was only recently filed and the parties have not yet participated in an early resolution session or mediation. The parties have requested hearing dates in the consolidated matters on March 14 through 17, 2016. Their request is within 90 days of the initial hearing date in Student's Case and is therefore reasonable. Accordingly, the request will be granted.

ORDER

1. The parties' stipulated Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2015090044, District's Case, are vacated.
3. The parties' stipulated Motion to continue the dates in Student's Case is granted. The consolidated matters shall be set as follows and prehearing conference statements shall be timely filed as specified in the scheduling orders issued in both cases.

Mediation:	March 2, 2016 at 9:30 a.m.
Prehearing Conference:	March 7, 2016 at 3:00 p.m.
Due Process Hearing:	March 14, 2016 at 1:30 p.m., March 15, 16 and 17, 2016 at 9:00 a.m., and continuing day to day Monday through Thursday as determined by the ALJ.

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 2015 110631, Student's Case.

DATE: November 24, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings