

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

UKIAH UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2024010195

OAH CASE NUMBER 2023100750

ORDER FOLLOWING PREHEARING CONFERENCE,
CONSOLIDATING CASES AND CONTINUING PREHEARING
CONFERENCE AND HEARING

JANUARY 12, 2024

On January 12, 2024, Administrative Law Judge Penelope Pahl, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Joshua Cruz appeared on behalf of Student. Attorney Laura O'Neill appeared on behalf of Ukiah Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

CONSOLIDATION MOTION AND CONTINUANCE REQUEST

UKIAH'S MOTION TO CONSOLIDATE

On January 4, 2024, Ukiah Unified School District filed a request for due process hearing naming Student as respondent. On January 8, 2023, Ukiah filed a motion to consolidate its due process request with Student's due process request naming Ukiah as respondent. Student's request, filed October 23, 2023, and amended December 4, 2023, was the subject of this prehearing conference.

Student opposed Ukiah's motion to consolidate the cases on January 11, 2024. However, the opposition expressed concern with the scheduling of the hearing of the consolidated matters as opposed to the consolidation itself. Student reiterated those concerns at this PHC. Student stated that his primary concern was having enough time to prepare his case on Ukiah's issue and to be able to give subpoenaed witnesses adequate time to arrange to appear to testify. Ukiah recognized Student's concerns as reasonable. Ukiah also noted that one of its attorneys was unavailable for the hearing dates originally set in Ukiah's case due to the need to attend a family memorial.

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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); and Code of Civ. Proc., § 1048, subd. (a).)

OAH must conduct a due process hearing and render a decision within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Here, both cases involve common questions of law or fact. Student's case pleads a denial of a free appropriate public education, or FAPE, spanning the 2022-2023 and part of the 2023-2024 school year. Ukiah seeks a determination that its October 3, 2023 IEP offered Student a FAPE. Student does not oppose the consolidation. In addition, consolidation furthers the interests of judicial economy due to the likely duplication of witnesses and documents to be considered in both cases. Accordingly, consolidation was granted at the PHC.

The parties' requested continuance of the consolidated hearing was granted at the time of the PHC. Good cause exists to continue dates in Ukiah's case due to its counsel's unavailability. Good cause also exists for the continuance to give Student time to prepare for Ukiah's case. The cases are consolidated and continued as follows:

1. Ukiah's case, OAH case number 2024010195, shall be considered primary. 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 Ukiah's case.
2. All dates in Student's Case, OAH case number 2023100750, are vacated.
3. The dates set for Ukiah's case, OAH case number 2024010195, are vacated.

4. The consolidated case is continued. The Prehearing Conference is scheduled for February 16, 2024 at 10:00 AM.
5. The Due Process Hearing is scheduled for February 27, 28, and 29, 2024.
6. All other prehearing matters are deferred to the February 16, 2024 PHC.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the PHC.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings