

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CULVER CITY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011020121
CULVER CITY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011030971 ORDER GRANTING MOTION TO CONSOLIDATE AND MOTION TO CONTINUE DISTRICT'S CASE

On February 3, 2011, Student filed a due process hearing request in OAH case number 2011020121 (Student's Case), naming Culver City Unified School District (District) as the respondent. On March 17, 2011, District filed a due process hearing request in OAH Case number 2011030971 (District's Case), naming Student as the respondent. District's case was scheduled for hearing on April 19, 2011. District's Case included a request for consolidation with Student's case on the ground that District's case contained common issues of law and fact. District also requested that the hearing dates for the consolidated matter be the April 25-28, 2011 dates set for hearing in Student's case, which OAH interprets as a request for a continuance. No opposition to consolidation was received from Student. As discussed below, District's request for consolidation and a continuance of District's case is granted.

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, the Student's Case and District's Case involve common questions of law and fact. Specifically, Student alleges numerous FAPE denials related to placement and related services up to the date of filing. Student also alleges facts calling into question her residency within the District. In District's case, District raises the issue of whether Student is eligible for special education services from the District on the basis of residency and whether District offered Student a FAPE in an IEP dated June 16, 2010. Because of the significant overlap of issues and factual allegations, consolidation will conserve time for the parties and for the administrative law judge assigned to hearing. 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).)

District has demonstrated good cause for a continuance of the hearing dates in District's case to those established for Student's case based on the grant of consolidation. Accordingly, District's request for a continuance of the dates in District's Case is granted.

ORDER

1. District's Motion to Consolidate and Continue District's Case is granted.
2. All dates previously set in OAH Case Number 2011030971 (District's Case) are vacated.
3. The dates currently set for Mediation, Prehearing Conference, and Hearing in OAH Case Number 2011020121 (Student's Case) shall apply to the consolidated matters. Those dates are: Mediation - March 30, 2011; Prehearing Conference - April 18, 2011 at 10:00 a.m.; Due Process Hearing - April 25-28, 2011 at 1:00 p.m. on the first day, 9:30 thereafter (unless changed at the Prehearing conference).
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 2011020121 (Student's Case).

Dated: March 29, 2011

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge (acting)
Office of Administrative Hearings