

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

SOUTH PASADENA UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011050857

PARENT ON BEHALF OF STUDENT.

v.

SOUTH PASADENA UNIFIED SCHOOL
DISTRICT

OAH CASE NO. 2011060001

ORDER GRANTING MOTION TO
CONSOLIDATE AND DENYING
DISTRICT'S MOTION TO CONTINUE

On May 19, 2011, South Pasadena Unified School District (District) filed a Request for Due Process Hearing in OAH case number 2011050857 (First Case), naming Parent on behalf of Student (Student) as the respondent. On May 27, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011060001 (Second Case), naming District.¹

On June 3, 2011, Student filed a Motion to Consolidate the First Case with the Second Case. On June 6, 2011, District filed its own Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in both cases. Student did not object to the request for continuance. However, District failed to provide mutually agreed upon hearing dates or proposed hearing dates in the motion for continuance.

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

¹ District asserts that it did not receive Student's complaint until June 6, 2011.

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 First Case and Second Case involve the same parties and the same witnesses. The two cases also involve overlapping issues of law and fact. Specifically, District seeks a determination that Student is not eligible for special education. Meanwhile, Student seeks a determination that District failed to provide her with a free appropriate public education (FAPE) for the 2010-2011 school year. Both parties seek consolidation of the two cases and consolidation will conserve judicial resources. Accordingly, consolidation is granted.

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).)

District seeks a continuance of the two cases on the basis that the matters will require more than one day for hearing. Specifically, District requests that four hearing days be reserved and set for the consolidated matters. Although OAH is inclined to grant the motion to continue, there is no evidence that the parties met and conferred about proposed hearing dates and the moving party did not provide proposed hearing dates for OAH's consideration. Accordingly, the motion to continue is denied without prejudice until such time that the parties submit mutually agreed upon dates for a continued hearing.

ORDER

1. Student's Motion to Consolidate is granted.
2. District's Motion to Consolidate is granted.
3. All dates previously set in OAH Case Number 20110508857 [First Case] are vacated. The consolidated cases are continued to the dates scheduled in OAH Case Number 2011060001 [Second Case] which are: Mediation on June 29, 2011 at 9:30 a.m., Telephonic Prehearing Conference on July 13, 2011 at 1:30 p.m. and Due Process Hearing on July 21, 2011 at 9:30 a.m.
4. District's Motion to Continue is denied at this time. 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 OAH Case Number 2001060001 [Second Case].

Dated: June 9, 2011

/s/

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings