

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENTS ON BEHALF OF STUDENT,  v.  LOOMIS UNION SCHOOL DISTRICT,	OAH CASE NO. 2012120052
LOOMIS UNION SCHOOL DISTRICT,  v.  PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2012110454  AMENDED ORDER GRANTING JOINT MOTIONS TO CONSOLIDATE, TO SET MEDIATION, AND TO RETAIN HEARING DATES

On November 14, 2012, the Loomis Union School District (District) filed a request for due process hearing (complaint) in Office of Administrative Hearings (OAH) case number 2012110454, naming Student (First Case). The District's complaint asks OAH to find that the individualized education program the District offered Student for the 2012-2013 school year constitutes a free appropriate public education (FAPE) for Student.

On November 28, 2012, OAH partially granted the parties' joint request to continue the First Case, setting the prehearing conference for January 30, 2013, and the hearing for February 12 and 13, 2013.

On November 30, 2012, Student filed a request for due process in OAH case number 2012120052, naming the District (Second Case). Student's complaint asks OAH to find that the District failed to offer Student a FAPE for the 2011-2012 and 2012-2013 school years, failed to make a clear offer of FAPE for those same school years, and failed to adequately assess Student in the area of occupational therapy. OAH issued a scheduling order for the Second Case on December 4, 2012, setting the case for mediation on January 3, 2013, for a prehearing conference on January 14, 2013, and for a due process hearing beginning on January 24, 2013.

On December 4, 2012, the parties filed a joint motion to: 1) consolidate the First and Second Cases; 2) schedule mediation for the consolidated cases on January 23, 2013; and 3)

retain as dates for the consolidated prehearing and due process hearing those dates presently scheduled for the First Case.

### *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 First Case and Second Case involve some common questions of law or fact, specifically, whether the District offered Student a FAPE for the 2012-2013 school year. As the parties indicate in their motion, consolidation furthers the interests of judicial economy because the issues involving school year 2012-2013 will involve common witnesses, evidence, facts, and law. Accordingly, consolidation is granted.

### *Continuance*

Although the parties have not specifically requested to continue the Second Case, their motion to retain the prehearing and hearing dates already set for the First Case amounts to a request to continue because dates have already been scheduled in the First Case, which are prior to the dates which the parties wish to retain.

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).) The parties' request to retain the presently scheduled hearing dates for the First Case demonstrates good cause for a continuance. The dates are close in time to those scheduled for the Second Case and are dates which the parties agree are convenient to all participants. The motion to retain the presently scheduled dates is granted.

## ORDER

1. The parties' joint motion to consolidate is granted.
2. The parties' joint motion to schedule mediation for January 23, 2013, is granted.
3. All dates previously set in OAH Case Number 2012120052 (Second Case) are vacated and the hearing is continued to the dates presently set in the First Case.
4. The parties' joint motion to retain the dates presently set in OAH Case Number 2012110454 (First Case) is granted. The consolidated proceedings are scheduled as follows:

**MEDIATION: JANUARY 23, 2013, starting at 9:30 a.m.<sup>1</sup>**

**PREHEARING CONFERENCE: January 30, 2013, at 10:00 a.m.**

**DUE PROCESS HEARING: FEBRUARY 12 AND 13, 2013, starting at 9:30 a.m. each day, unless otherwise ordered.**

5. 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 2012120052 (Second Case).

Dated: December 6, 2012

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> The Order granting the parties' joint motions, issued by OAH on December 5, 2012, inadvertently scheduled the mediation for January 13, 2013. This Amended Order corrects that error.