

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  OAKLAND UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013070320
PARENT ON BEHALF OF STUDENT,  v.  OAKLAND UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013051017  ORDER GRANTING MOTION TO CONSOLIDATE

On May 23, 2013, Student filed a Request for Due Process Hearing in OAH case number 2013051017 (First Case), naming Oakland Unified School District (District). On July 5, 2013, District filed a Request for Due Process Hearing in OAH case number 2013070320 (Second Case), naming Student. On July 8, 2013, the Office of Administrative Hearings (OAH) held a pre-hearing conference in First Case and issued an order continuing the hearing in First Case to August 19, 2013.

On July 12, 2013, District filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in Second Case to August 19, 2013. Student did not file a response to the Motion to Consolidate or oppose consolidation.<sup>1</sup>

*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].)

---

<sup>1</sup> Student filed a motion to continue on July 17, 2013. Student's motion is not yet ripe for ruling and will be ruled on in a separate order.

Here, the First Case and Second Case involve a common question of law or fact, specifically, whether District appropriately assessed Student and declined to find Student eligible for special education services under the Individuals with Disabilities Education Act (IDEA). Student does not oppose consolidation. In addition, consolidation furthers the interests of judicial economy because the two cases involve similar evidence and witnesses. 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, District requested that the hearing dates in Second Case be continued to August 19, 20, and 21, 2013 to coincide with the hearing dates currently set in Student's case, which Student did not oppose in connection with this motion. Therefore the request is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. District's request to continue the hearing dates in Second Case is granted. The Prehearing Conference in the consolidated cases shall be held on August 12, 2013 at 3:00 p.m. The Due Process Hearing in the consolidated cases shall be held on August 19, 20, and 21, 2013, continuing day to day Monday through Friday as determined by the ALJ, beginning at 10:30 a.m. on the first hearing day and at 9:00 a.m. on remaining days, unless otherwise ordered.
3. 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 2013070320 [Second Case].

Dated: July 19, 2013

/s/  
\_\_\_\_\_  
ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings