

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014050476

v.

MAGNOLIA SCHOOL DISTRICT ,

MAGNOLIA SCHOOL DISTRICT,

OAH CASE NO. 2014050476

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On April 8, 2014, Parent on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 201404040399 (First Case), naming the Magnolia School District (District) as respondent.

On May 8, 2014, the District filed a Request for Due Process Hearing in OAH case number 2014050476 (Second Case), naming Student as respondent.

On May 20, 2014, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in both cases.

The District did not file a response to the motion.

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 a common question of law or fact, specifically, the validity of the District's March 2014 assessments in academics and speech and language as well as assessment, and the March 15, 2014 Individual Education Plan.. The District does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because the same issue will be litigated as part of both cases. 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).)

Student seeks to continue the hearing of the consolidated case until July 7, 2014 through July 10, 2014 as Student's counsel will be unavailable. Student states that the District counsel is also available on those dates.

Student's motion to continue the hearing demonstrates good cause for a continuance, based on the availability of counsel for both sides.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2014040399 and 2014050476 are vacated.
3. Student's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on June 30, 2014, at 3:00 p.m., and the Due Process Hearing in the consolidated cases shall be held on July 7, 2014 through July 10, 2014 at 1:30 p.m. on the first day.
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 2014040399 [First Case].

DATE: May 27, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings