

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2014070414

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT,

DAVIS JOINT UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2014090236

v.

PARENT ON BEHALF OF STUDENT.

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING MOTION
TO CONSOLIDATE AND DENYING
MOTION TO CONTINUE.

On September 29, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Margaret Broussard, Office of Administrative Hearings. Elizabeth Rho-Ng, Attorney at Law, appeared on behalf of the Davis Joint Unified School District. Roberta Savage, Attorney at Law, appeared on behalf of Student. The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following orders:

1. Motion to Consolidate: On July 1, 2014, Student filed a request for due process hearing in OAH case number 2014070414 (Student's case), naming Davis. On September 5, 2014, Davis filed a request for due process hearing in OAH case number 2014090236 (Davis's case), naming Student.

On September 22, 2014, Student filed a motion to consolidate Davis's case with its case. Davis filed and opposition to the motion on September 24, 2014. Student filed a reply to the opposition on September 25, 2014 and Davis filed a sur-reply on September 29, 2014.

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, Student's case and Davis's case involve some common question of law and fact and raise the possibility of conflicting decisions. In addition, consolidation furthers the interests of judicial economy because of the commonality of legal and factual issues, plus documentary evidence and witnesses. Accordingly, consolidation was granted.

All dates previously set in OAH Case number 2014090236 (Davis's case) are vacated. The consolidated cases shall proceed on the dates set in the primary matter, Student's Case, OAH Case No. 2014070414. The prehearing conference is scheduled on November 3, 2014, at 1:00 p.m., and the hearing is scheduled to begin on November 17, 2014, and continue day to day, Monday through Thursday, at the discretion of the administrative law judge.

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 Student's Case, OAH case number 2014070414.

2. Motion for Continuance: Student moved to continue Davis's case should the motion to consolidate be denied. As the motion was granted, the motion to continue is moot and was denied.

3. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify.

4. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the next PHC.

5. Settlement: Dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of the signed agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the hearing and set a telephonic status conference call following the date anticipated for board approval. The parties should

otherwise plan to attend the scheduled PHC and the hearing unless different arrangements have been agreed upon by the assigned ALJ or ordered by OAH.

IT IS SO ORDERED.

DATE: September 29, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings