

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  RIO SCHOOL DISTRICT,	OAH CASE NO. 2014100407
RIO SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014070127  ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On June 27, 2014, Rio School District (“District”) filed a Request for Due Process Hearing in OAH case number 2014070127 (First Case), naming Student.

On October 8, 2014, Student filed a Request for Due Process Process Hearing in OAH case number 2014100407 (Second Case), naming District.

On October 9, 2014, Student and District filed a joint Motion to Consolidate the First Case with the Second Case, designate the Student-filed case as the primary case, and to continue the due process hearing date set in Case Number 2014070127 (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 common questions of law or fact, specifically, the adequacy of the District’s April 29, 2014 psychoeducational assessment, April 2014 LAS assessment, and April 2014 OT assessment. Both District and Student join in the Motion to Consolidate. In addition, consolidation furthers the interests of judicial

economy because there are common witnesses, including expert witnesses, and common documentary evidence. Further, consolidation avoids the risk of inconsistent rulings in the closely related matters. 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).)

The parties' joint motion to continue the hearing in the first case demonstrates good cause for a continuance, based on the facts and circumstances of the two related cases, particularly the commonality and complexity of the issues. Accordingly, the First Case is continued to the dates in the Second Case and the calculation of the 45-day decision timeline will be based on the filing of the Second Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014070127 are vacated.
3. Student's Motion to Continue the First Case is granted. Consistent with the dates designated in the Scheduling Order in Case No. 2014100407, the Mediation in the above-captioned case consolidated cases shall be held on November 13, 2014 at 9:30 a.m., the Prehearing Conference in the consolidated cases shall be held on November 24, 2014, at 10:00 a.m., and the Due Process Hearing in the consolidated cases shall be held on December 2, 2014, continuing from day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge, and beginning at 9:30 a.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 the Second Case, OAH Case Number 2014100407.

DATE: October 14, 2014

/s/

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L. T. MANN III  
Administrative Law Judge  
Office of Administrative Hearings