

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

ELK GROVE UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT ,

OAH Case No. 2014120367

PARENTS ON BEHALF OF STUDENT ,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014110412

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUING
DATES

On November 6, 2014, Student's parents on behalf of Student filed a request for a due process hearing in Office of Administrative Hearings case number 2014110412 (First Case), naming Elk Grove Unified School District. That case is currently set for hearing on January 13, 2015.

On December 9, 2014, Elk Grove filed a request for a due process hearing in OAH case number 2014120367 (Second Case), naming Student and Student's parents. The hearing in that case is set to begin on January 6, 2015.

On December 9, 2014, Elk Grove filed a motion to consolidate the First Case with the Second Case.

On December 12, 2014, Student filed a statement of non-opposition to the motion to consolidate. The paper filed by Student contained the following statement: "Please confirm that the hearing dates in Student's original case are the controlling dates." On December 16, 2014, the parties requested a mediation date of December 23, 2014, for the consolidated cases, the date currently set for mediation in the District's case.

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 and fact, specifically, whether the various IEP's offered during the 2014 – 2015 school year were appropriate to meet Student's needs. Student does not oppose the motion. Consolidation will further the interests of judicial economy because both cases will involve many of the same witnesses and much of the same evidence. Accordingly, consolidation is granted.

Student's request to maintain the prehearing conference and hearing dates from Student's case will be treated as a request for a continuance. That request is granted. The prehearing conference and hearing dates currently set in the Second Case will be continued to the dates currently set in the First Case. The mediation will be held on December 23, 2014, as requested by the parties.

ORDER

1. Elk Grove's motion to consolidate is granted.
2. The hearing dates in OAH Case Number 2014120367 (Second Case) are continued as follows: 1) Telephonic Prehearing Conference will be on January 5, 2015, at 1:00 p.m.; and 2) Due process hearing will begin on January 13, 2015, at 9:30 a.m. and continue day to day thereafter, Monday through Thursday, as needed at the discretion of the ALJ.
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 2014120367 (Second Case).

DATE: December 17, 2014

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings