

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ENTERPRISE SCHOOL DISTRICT,	OAH CASE NO. 2013100636 (PRIMARY)
ENTERPRISE SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013120077 (SECONDARY) ORDER GRANTING JOINT MOTION TO CONSOLIDATE AND JOINT REQUEST FOR CONTINUANCE

On October 15, 2013, Parents on behalf of Student filed a request for due process hearing (complaint) in Office of Administrative Hearings (OAH) case number 2013100636 (First Case), naming the Enterprise Elementary School District (District).

On November 26, 2013, the District filed a complaint in OAH case number 2013120077 (Second Case), naming Parents on behalf of Student.

On December 3, 2013, Student was granted leave to amend and filed an amended complaint in the First Case.

On December 6, 2013, the parties filed a request and stipulation to consolidate the First and Second Cases for hearings, and a request for continuance of the consolidated prehearing conference (PHC) and hearing dates. On December 13, 2013, District's notice of insufficiency was denied.

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 and Second Cases involve common questions of law or fact, specifically: (i) whether District adequately assessed Student and provided him with a free appropriate public education, (ii) whether Parents are entitled to independent educational evaluations and reimbursement for privately obtained assessments, and (iii) whether Student may be exited from special education. In addition, consolidation furthers the interests of judicial economy because the witnesses and evidence presented will be substantially the same in both proceedings. 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).)

This is the parties' first request for continuance, and they have stipulated to mutually agreeable dates in the near future. Therefore, the continuance is granted.

ORDER

1. The joint request to consolidate is granted. OAH case number 2013100636 (First Case) is designated the primary case in these consolidated matters.
2. All dates previously set in OAH case number 2013120077 (Second Case) are vacated.
3. The joint request for continuance is granted. The PHC in the consolidated cases shall be held on January 24, 2014 at 10:00 a.m., and the due process hearing in the consolidated cases shall be held on January 28-30, 2014, at 9:30 a.m. on the first day, and continuing day to day, Monday through Thursday, as needed at the discretion of the administrative law judge. **[Please note date change for PHC: Requested date is a State holiday.]**
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 amended complaint in OAH Case Number 2013100636 (First Case).

Dated: December 13, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings