

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS on behalf of STUDENT,

vs.

OAK PARK UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2010021041

OAK PARK UNIFIED SCHOOL DISTRICT,

vs.

PARENTS on behalf of STUDENT.

OAH CASE NO. 2010030981

ORDER GRANTING MOTION TO
CONSOLIDATE AND DENYING
MOTION TO CONTINUE

On February 22, 2010, Student filed a Request for Due Process Hearing in OAH case number 2010021041 (Student's Case), against the Oak Park Unified School District (District).

On March 9, 2010, the District filed a Request for Due Process Hearing in OAH case number 2010030981 (District's Case), against Student.

On March 16, 2010, the District filed a Motion to Consolidate the District's Case with the Student's Case and to continue the due process hearing dates set for both cases.

On March 20, 2010, Student filed an opposition to the District's motion to consolidate and the District's motion to continue these matters.

APPLICABLE LAW and DISCUSSION

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, both cases involve a common question of law or fact, specifically, the adequacy of the District's June 2009 psychoeducational and academic assessments, as supplemented by the October 9, 2009 addendum, and whether the District's September 10, 2009 individualized education program provides Student with a free appropriate public education. In addition, consolidation furthers the interests of judicial economy because the cases will involve the same witnesses and evidence. 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 District asks to continue the consolidated matter to May 24-27, 2010, because the consolidated matter cannot be heard in the one day presently scheduled by OAH. Student opposes any request to continue the hearing date. The District's motion to continue the hearing fails to demonstrate good cause for a continuance because the District provides no evidence that it is not available until its proposed dates. The District's request for additional hearing dates can be accommodated by adding additional hearing dates to previously scheduled hearing date.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in the District's case, OAH Case Number 2010030981, are vacated.
3. The District's Motion to Continue is denied. The Prehearing Conference in the consolidated cases shall be held on April 12, 2010, at 10:00 a.m. and the Due Process Hearing in the consolidated cases shall be held on April 19, 2010 through April 22, 2010, with the hearing 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 OAH Case Number 2010021041, Student's Case.

Dated: March 29, 2010

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings