

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

MODESTO CITY SCHOOLS

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010050203

PARENT ON BEHALF OF STUDENT,

v.

MODESTO CITY SCHOOLS.

OAH CASE NO. 2010061118

ORDER FOLLOWING TRIAL
SETTING CONFERENCE;
CONSOLIDATING MATTERS; AND
SETTING DATES FOR
PREHEARING CONFERENCE AND
HEARING

On May 2, 2010, Modesto City Schools (District) filed a Request for Due Process Hearing (District's complaint) in Office of Administrative Hearings (OAH) case number 2010050203 (First Case).

On June 14, 2010, Student filed a Request for Due Process Hearing (Student's complaint) in OAH case number 2010061118 (Second Case).

On June 18, 2010, Student filed a Motion to Consolidate the two matters for hearing.

On June 21, 2010, a prehearing conference was held. Thereafter, OAH issued an order that, in pertinent part, set a one day special issue hearing on the question of Student's residency, as alleged in District's complaint. That one day special issue hearing was to take place on June 28, 2010. The pending motion to consolidate was taken under submission pending the outcome of the special issue hearing.

On June 25, 2010, District filed a motion to withdraw the residency issue, and to vacate the special issue hearing. Later that day, OAH issued an order vacating the special issue hearing and setting the matters for a Trial Setting Conference to be held on June 29, 2010; the trial setting came on as regularly scheduled. The pending motion to consolidate

was ruled on and dates selected for the prehearing conference and trial of these matters were selected.

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 complaints in the First Case and Second Case allege common questions of law and fact; specifically, both complaints raise nearly identical legal issues. Furthermore, resolution of this matter requires testimony from common witnesses, including parents, District employed witnesses, and experts. At the trial setting conference, both parties stipulated that the two matters should be consolidated for hearing, because doing so would be more efficient than having the cases heard separately. Accordingly, Student's motion for consolidation is granted.

At the trial setting conference, the parties provided mutually agreeable dates for the prehearing conference and the hearing of the consolidated cases.

Based on the above and the discussions of the parties and the ALJ, the following order is hereby made:

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2010050203 and 201006118 are vacated.
3. The Mediation in the above-captioned case shall be held at a date and time to be determined.
4. The Prehearing Conference in the consolidated cases shall be held on August 18, 2010, at 10:00 a.m.
5. The Due Process Hearing in the consolidated cases shall be held September 7 through 10 and September 15. The 45-day timeline for issuance of the decision in these matters shall be based on the date of the filing of the complaint in OAH Case Number 2110061118.

6. The consolidated matter is continued until the date of the prehearing conference

Dated: June 29, 2010

/s/

GARY GEREN
Administrative Law Judge
Office of Administrative Hearings