

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2010070152

v.

ARCADIA UNIFIED SCHOOL DISTRICT,

ARCADIA UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2010060856

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND MOTION TO
CONTINUE

On June 21, 2010, the Arcadia Unified School District (District) filed a request for due process hearing in OAH case number 2010060856 (First Case), naming Student and Student's parents (Student).

On June 29, 2010, Student filed a request for due process hearing in OAH case number 2010070152 (Second Case), naming the District.

On June 29, 2010, Student filed a Motion to Consolidate the First Case with the Second Case. On July 2, 2010, Student filed a motion to continue the due process hearing.

On July 9, 2010, the District filed a response to the motions. The District stated that it did not oppose consolidation, but objected to continuing the hearing later than the date currently scheduled in the Second Case (August 23, 2010).

DISCUSSION

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, whether the District has offered Student a free appropriate public education for the 2010-2011 school year in the IEP offer made in May 2010. Consolidation will further the interests of judicial economy in this case because it will allow both parties' claims regarding the May 2010 IEP to be heard at once, avoiding duplication of testimony and the possibility of inconsistent rulings. Accordingly, consolidation is granted.

On July 2, 2010, Student made an appearance in the First Case and requested a continuance of the hearing in that case. 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).) In light of the consolidation, good cause exists to continue the hearing date and other dates currently set in the First Case. In Student's request for continuance, Student explained that Student's parents will be on vacation during August, on the date currently set for hearing in the Second Case. Student has requested dates in September for the hearing and prehearing conference and has requested that the hearing be set for four days.

Good cause exists to grant Student's request for continuance until September 2010. The new hearing dates will be September 13 through 16, 2010. A telephonic prehearing conference will be held on September 8, 2010, at 10:00 a.m.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2010060856 are vacated.
3. The due process hearing and prehearing conference dates in the consolidated cases are continued to the following dates and times:
Due process hearing: September 13-16, 2010, at 9:30 a.m.
Telephonic prehearing conference: September 8, 2010, at 10:00 a.m.
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 2010070152.
5. The parties' joint request to hold the mediation in this matter on July 20, 2010, is granted. The mediation will take place on July 20, 2010, at 9:30 a.m.

Dated: July 12, 2010

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings