

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

HUNTINGTON BEACH CITY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010091008

HUNTINGTON BEACH CITY SCHOOL
DISTRICT AND WEST ORANGE COUNTY
CONSORTIUM FOR SPECIAL EDUCATION

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011020386

ORDER GRANTING MOTION TO
CONSOLIDATE GRANTING MOTION
TO CONTINUE

On September 29, 2010, the District filed a Request for Due Process Hearing in OAH case number 2010091008 (First Case), naming Student (student).

On February 9, 2011 the District and the West Orange County Consortium for Special Education (Selpa) filed a Request for Due Process Hearing in OAH case number 2011020368 (Second Case), naming Student.

On March 1, 2011, the parties submitted a joint request to consolidate the First Case with the Second Case and to continue the due process hearing date set in Case Number 2010091008 (first case).

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 Case and Second Case involve a common question of law or fact, specifically, assessments of Student. The parties have stipulated to the request. In addition, consolidation furthers the interests of judicial economy because the issue and witnesses are the same in both cases. 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 joint motion to continue the hearing demonstrates good cause for a continuance, based on the consolidation of cases. The dates in the first case have already been set and include additional time for both cases, not contained in the dates set for the second case. Therefore the dates in the second case shall be vacated, and the dates in the first case shall remain as scheduled

ORDER

1. The joint stipulation to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011020368 (second case) are vacated.
3. The joint stipulation to continue to the dates set in Case Number 2010091008 (first case) is granted. The Prehearing Conference in the consolidated cases shall be held on March 16, 2011, at 1:30 p.m. and the Due Process Hearing in the consolidated cases shall be held on March 28 through 30, 2011 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 2011020368 (second case).

Dated: March 02, 2011

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings