

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. VALLEJO CITY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011050905
VALLEJO CITY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011040784 ORDER GRANTING MOTION TO CONSOLIDATE, GRANTING MOTION TO CONTINUE, AND SETTING NEW DATES

On April 21, 2011, Vallejo City Unified School District (District) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2011040784, naming Student (First Case).

On May 24, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011050905, naming District (Second Case).

On June 6, 2011, Student filed a Motion to Consolidate the two cases and to continue the due process hearing date to coincide with the dates set in the First Case. The parties had previously stipulated to a continuance of the dates in the First Case, which was granted by OAH. District does not oppose Student's motion.

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, Student's and District's cases involve a common question of law or fact. Specifically, both cases seek a determination whether District's assessment was appropriate. The parties have met, conferred and stipulated to the hearing dates with the expectation that these two cases would be consolidated, indicating that District does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because both cases will involve the testimony of the same witnesses and the same documentary evidence. The issues in both cases can be resolved in a single proceeding. 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).)

Student requests that the consolidated matters be calendared for the dates previously agreed to in the First Case. This will be treated as a request to continue the dates in the Second Case. Good cause is established to continue the dates in the Second Case and provide for the consolidated matters to be heard on the previously agreed upon dates in the First Case. Accordingly, continuation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in Student's case (OAH Case Number 2011050905) are vacated.
3. Student's Motion to Continue is granted and the consolidated matters are set as follows:
 - a. Mediation shall be held on June 9, 2011;
 - b. The telephonic prehearing conference shall be held on July 27, 2011, at 1:30 p.m.; and
 - c. The due process hearing shall be held on August 9-11 and August 23-25, 2011.

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 the Second Case, Student's case (OAH Case Number 2011050905).

Dated: June 7, 2011

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings