

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  PALO ALTO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011080294 (Primary)
PALO ALTO UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011050215  ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE AND RESET DATES

On May 5, 2011, District filed a Request for Due Process Hearing in OAH case number 2011050215 (First Case), naming Student. On August 9, 2011 Student filed a Request for Due Process Hearing in OAH case number 2011080294 (Second Case), naming District. On September 21, 2011, Student filed a Motion to Consolidate the First Case with the Second Case and to reset dates in the First Case in accordance with the dates set in Second Case. Although Student's motion represents that consolidation is desired by both parties, District did not join in the motion, nor oppose it.

*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 the Second Case involve a common question of law or fact. Specifically, the First Case involves the appropriateness of District assessments from March, 2011 which were discussed at Student's April 1, 2011 and June 10, 2011 individual education plan (IEP) team meetings. The Second Case raises issues of denial of a free

appropriate public education relating to the same IEPs. Consolidation furthers the interests of judicial economy and, in the absence of opposition, Student's motion will be 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).)

Here, the PHC in the First case is set for October 24, 2011, and the hearing dates are set for November 8, 9, and 10, 2011. The Second Case was set, pursuant to a September 19, 2011 OAH Order granting a continuance, for mediation on October 12, 2011, for a pre-hearing conference (PHC) on October 31, 2011, and for a multi-day hearing on November 7, 8, 9, 10, 21 and 22, 2011. Student contends that the parties desire that the mediation, PHC and hearing in consolidated cases be set on the same dates as set forth in the September 19, 2011 OAH Order. In the absence of opposition from District, Student's request to continue and reset the dates in the consolidated matters demonstrates good cause and will therefore be granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011050215 (First Case) are vacated.
3. Student's request to continue and reset dates in the consolidated matter is granted. The Mediation in the above-captioned consolidated matter shall be held on October 12, 2011 at 9:30 a.m., the PHC shall be held on October 31, 2011 at 10:00 a.m., and the Due Process Hearing shall be held on November 7-10, and November 21 and 22, 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 2011080294 [Second Case].

Dated: September 29, 2011

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings