

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PACIFIC GROVE UNIFIED SCHOOL
DISTRICT,

v.

PARENT(S) ON BEHALF OF STUDENT,

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v.

PACIFIC GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030540

OAH CASE NO. 2012040179

AMENDED ORDER GRANTING
MOTION TO CONSOLIDATE AND
CONFIRMING DATES¹

On March 14, 2012, Pacific Grove Unified School District (District) filed a Request for Due Process Hearing (complaint) in OAH Case Number 2012030540 (First Case), naming Student. On April 4, 2012, Student filed a complaint in OAH Case Number 2012040179 (Second Case), naming the District. The parties contemporaneously filed a stipulation to consolidate the cases, but agreed to maintain the dates set for mediation, prehearing conference (PHC) and due process hearing in the 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].)

¹ This amended order corrects an error in the third order in which OAH case number 2012030540 is referred to as “Second Case” rather than “First Case.”

Here, the First Case and Second Case involve a common question of law or fact, specifically, whether the District offered Student an appropriate placement and services for the 2011-2012 school year. The parties have also stipulated that the matters be consolidated. In addition, consolidation furthers the interests of judicial economy because the many of the same witnesses will testify in both cases. Accordingly, consolidation is granted.

Dates for Hearing

On March 23, 2012, OAH granted Student's contested request for continuance in the First Case. The parties now request that those dates be maintained as the dates in the consolidated matter, though the dates in the Second Case are later in time. OAH grants the parties request and all dates in the Second Case shall be vacated. The First Case, case number 2012030540, shall be the lead case for purposes of the 45-day time line for issuance of a written decision. The time line in the consolidated cases remains tolled due to the March 23, 2012 order granting continuance.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012040154 (Second Case) are vacated. The dates currently set in the First Case shall remain as scheduled. The mediation shall be held on April 26, 2012; the PHC shall be held on May 23, 2012, at 10:00 a.m.; and, the due process hearing shall be held on June 5 through June 7, 2012.
3. 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 2012030540 (First Case) and is subject to the March 23, 2012 order granting continuance.

Dated: April 20, 2012

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings