

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012031078

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012070228

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On April 27, 2012, Parent on behalf of Student filed a Second Amended Request for Due Process Hearing in OAH case number 2012031078 (First Case), naming Baldwin Park Unified School District and Covina-Valley Unified School District (Districts) as respondents. Pursuant to the parties' May 31, 2012 stipulated request for continuance, the prehearing conference (PHC) was set for September 5, 2012, and the due process hearing was scheduled for September 10 through 14, 2012.

On July 9, 2012, Districts jointly filed a Request for Due Process Hearing in OAH case number 2012070228 (Second Case), naming Student. Attorney Meredith B. Reynolds also served a motion to consolidate the Second Case with the First Case, with the District's complaint. However, the motion to consolidate was not received or processed by OAH prior to the July 24, 2012 mediations of both cases. Therefore, the motion to consolidate is ruled upon at this time.

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. In the First Case's second amended complaint, Student alleges that Districts failed to offer a free appropriate public education (FAPE) to Student in the individualized education program (IEP) meetings of May, July and August, 2011, citing various reasons therefore. In the Second Case's complaint, the Districts seek a determination that their May 2012 IEP offer provides Student with a FAPE. All parties acknowledge that the Second Case adds the May 2012 IEP to the due process hearing and that the two cases address the same issues of services and placement. Student does not oppose the consolidation. Since consolidation furthers the interests of judicial economy, consolidation is granted.

Continued PHC and Hearing

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 requested a continuance for purposes of obtaining and preparing experts relevant to the additional Districts' assessments and evaluations utilized at the May 2012 IEP. The parties discussed the continuation request at the mediations of the two cases on July 24, 2012. Since good cause exists for the Student's continuance request, the Student's motion is granted. The parties stipulated to a continued PHC at 1:30 p.m., October 3, 2012, and new due process hearing dates of October 10, 11, 15, 16, 17, and 18, 2012.

ORDER

1. Districts' Motion to Consolidate is granted and the First Case is the primary case.
2. All dates previously set in OAH Case Number 2012031078 (First Case) and OAH Case Number 2012070228 (Second Case) are vacated.
3. Student's Motion to Continue is granted. The Prehearing Conference shall be at 1:30 p.m., October 3, 2012, and the Due Process Hearing shall be held on October 10, 11, 15, 16, 17, and 18, 2012, at 9:30 a.m., unless otherwise ordered at the PHC.
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 second amended complaint in OAH Case Number 2012031078 (First Case).

Dated: July 25, 2012

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings