

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

VICTOR VALLEY UNION HIGH SCHOOL
DISTRICT,

OAH CASE NO. 2012090744
(Primary)

PARENT ON BEHALF OF STUDENT ,

v.

VICTOR VALLEY UNION HIGH SCHOOL
DISTRICT,

OAH CASE NO. 2012070653

ORDER CONSOLIDATING MATTERS
AND GRANTING JOINT REQUESTS TO
CONTINUE MEDIATION,
PREHEARING CONFERENCE, AND
HEARING

On July 23, 2012, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2012070653 (First Case), naming Victor Valley Union High School District (District) as respondents. On September 24, 2012, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2012090744 (Second Case), naming District.

On October 3, 2012, the parties filed a joint request to continue the mediation, prehearing conference (PHC), and due process hearing (DPH) in the First Case and a similar joint request in the Second Case. Both joint requests stipulate to the same proposed continued dates for mediation, PHC, and DPH.

Although the parties did not request consolidation, the joint requests exhibit the parties' desire to mediate and hear the two cases in the same proceedings. Therefore, on its own motion, OAH reviewed and evaluated the complaint for consolidation.

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 common questions of law and fact. The two cases involve the same parties, contain related issues, and require many of the same witnesses. By seeking to have both matters mediated and heard at the same time, the parties similarly recognize that consolidation of the matters would further the interests of judicial economy by saving time or preventing inconsistent rulings. The cases are ordered consolidated.

Continued Mediation, 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).)

The parties stipulated to a continued mediation of December 19, 2012, a PHC at 10:30 a.m., January 21, 2013, and new due process hearing dates of January 29-31, 2013. The parties' joint request was the first stipulated request for continuance in each case.

Good cause appearing, the joint requests to continue the dates are granted. However, the requested prehearing conference (PHC) date of January 21, 2013 is a holiday. OAH does not conduct PHC's at 10:30 a.m., but at 10:00 a.m. and 1:30 p.m. Therefore, the PHC shall be continued to January 23, 2012, at 10:00

ORDER

1. The First Case and the Second Case are consolidated, with the Second Case designated as the primary case number.
2. 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 2012090744 (Second Case).
3. All dates previously set in both cases are vacated.
4. The joint requests for continuance are granted and the consolidated matters are set as follows:

Mediation: December 19, 2012 at 9:30 AM.

Prehearing Conference:: January 23, 2013 at 10:00 AM.

Due Process Hearing: January 29-31, 2013 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

Dated: October 04, 2012

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings