

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

JULIAN CHARTER SCHOOL AND  
JULIAN UNION ELEMENTARY SCHOOL  
DISTRICT

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012100043

STUDENT,

v.

JULIAN CHARTER SCHOOL AND  
JULIAN UNION ELEMENTARY SCHOOL  
DISTRICT

OAH CASE NO. 2012100933

ORDER GRANTING STUDENT'S  
MOTION TO CONSOLIDATE AND  
GRANTING DISTRICT'S MOTION TO  
CONTINUE

On October 1, 2012, Julian Charter School, by and through Julian Union Elementary School District (District), filed a request for due process hearing (complaint) in Office of Administrative Hearings (OAH) case number 2012100043 (First Case), naming Parents on behalf of Student.

On October 24, 2012, Student filed a request for due process hearing in OAH case number 2012100933 (Second Case), naming District.

Included in Student's complaint filed October 24, 2012, was a motion to consolidate the First Case with the Second Case.

On October 26, 2012, District filed a response to Student's motion, stating that School and District are not opposed to consolidation, so long as the continued prehearing conference (PHC) and due process hearing dates ordered in the PHC in the First Case held on October 22, 2012 are preserved. District's response will be treated as a motion to continue the dates in the Second 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].)

Here, the First Case and Second Case involve a common question of law and fact, specifically, whether District offered Student a free appropriate public education (FAPE) in the individualized education program (IEP) of April 14, 2012. District's complaint also includes a statement of Student's stay put placement under an April 11, 2011 IEP, which Student's complaint contends did not appropriately provide for Student's behavioral needs. Although Student's complaint contains a challenge to Student's last, as well as most recent, IEPs, the parties agree that the matters should be consolidated, and consolidation furthers the interests of judicial economy because the cases involve many of the same witnesses, evidence and questions of law, and will avoid the repetitive presentation of common evidence. 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).)

District does not oppose consolidation if the consolidated matters are scheduled to be heard on the continued dates set in the First Case, with the PHC on January 14, 2013 and a six-day on January 22, 23, 24, 29, 20 and 31, 2013. The Second Case has currently scheduled dates of December 10, 2012 for the PHC and December 18, 2012 for a one-day hearing. District's response is deemed a motion to continue the dates in the Second case upon consolidation.

Good cause is shown for the requested continuance. The consolidated matters will take more than one day to be heard, and six hearing days have already been reserved in the First Case in January 2013, ensuring an efficient and expeditious hearing of all issues if the consolidated matters are heard on those dates.

#### ORDER

1. Student's motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2012100933 (Second Case) are vacated.
3. District's motion to continue the Second Case is granted. The mediation in the above-captioned consolidated cases shall be held on November 20, 2012 at 9:30 a.m.; the telephonic PHC in the consolidated cases shall be held on January 14, 2013, at 10:00 a.m.; and the due process hearing in the consolidated cases shall be

held on January 22, 23, 24, 29, 30 and 31, 2013, beginning at 9:30 a.m. on the first day and continuing day to day, Monday through Thursday, until completed or otherwise ordered.

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 2012100933 (Second Case).

Dated: October 30, 2012

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings