

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN MATEO-FOSTER CITY SCHOOL DISTRICT,	OAH CASE NO. 2012090848
SAN MATEO-FOSTER CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012110010 ORDER GRANTING DISTRICT'S MOTION TO CONSOLIDATE AND GRANTING DISTRICT'S MOTION TO CONTINUE

On September 27, 2012, Student filed a request for due process hearing (complaint) in OAH case number 2012090848 (First Case), naming the San Mateo-Foster City School District (District).

On October 29, 2012, District filed a complaint in OAH case number 2012110010 (Second Case), naming Student. On November 2, 2012, District filed a motion to consolidate the First Case with the Second Case. Student has not filed a response to District's motion.

District's motion did not seek that the prehearing conference (PHC) and hearing dates in the Second Case be advanced to those currently scheduled in the First Case, therefore, the motion will be treated as including a request for continuance of the First Case to the PHC and hearing dates scheduled in the Second Case. The file reflects that the parties have cancelled both scheduled mediation dates.

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, specifically, both cases seek a determination of whether Student's individualized education program (IEP) of September 7, 2012 offered Student a free appropriate public education (FAPE).¹ Consolidation furthers the interests of judicial economy because the respective cases will involve the same witnesses, documents 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).) As discussed above, consolidation promotes judicial economy, and good cause exists to continue the PHC and hearing dates in the First Case to the dates scheduled in the Second Case, in order that they be heard on the same day. Therefore, the continuance is granted.

ORDER

1. District's motion to consolidate is granted.
2. All dates previously set in OAH case number 2012090848 (First Case) are vacated and the First Case is continued for good cause on District's motion.
3. The PHC in the consolidated cases shall be held on November 19, 2012 at 1:30 p.m. and the due process hearing in the consolidated cases shall be held on November 27, 2012, at 9:30 a.m. on the first day, and continuing day to day, Monday through Thursday, as needed at the discretion of the administrative law judge.
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 2012090848 (First Case).

Dated: November 07, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings

¹ Student's complaint also alleges that the IEP's of April 16 and April 30, 2012 denied Student a FAPE.