

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2013031079

v.

BAKERSFIELD CITY SCHOOL DISTRICT,

BAKERSFIELD CITY SCHOOL DISTRICT,

OAH CASE NO. 2013030776

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING, IN
PART, MOTION TO CONTINUE

On March 19, 2013, the Bakersfield City School District (District) filed a Request for Due Process Hearing in OAH case number 2013030776 (First Case), naming Student's parents on behalf of Student (Student).

On March 26, 2013, Student filed a Request for Due Process Hearing in OAH case number 2013031079 (Second Case), naming the District.

On March 26, 2013, Student filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates to enable Student to obtain counsel. On April 2, 2013, the District filed a motion to consolidate and continue both cases.¹

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 It is unclear whether Student served the District with a copy of Student's motion. However, because the District filed its own motion seeking the same remedy, it is appropriate to grant consolidation of these two matters.

Here, both parties recognize that the First Case and Second Case involve common questions of law or fact. Consolidation will further the interests of judicial economy. Accordingly, consolidation is granted.

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).)

There is good cause to continue these matters. However, neither party has proposed new dates for the hearing, mediation and prehearing conference. Therefore, the requests to continue these matters are granted as to the First Case, the District's case, but denied without prejudice as to the Second Case. The dates currently set for Student's case (the Second Case) will remain the hearing, prehearing conference and mediation dates for these consolidated matters unless the parties provide a stipulation for continuance containing new proposed dates.

ORDER

1. The parties' motions to consolidate are granted.
2. All dates previously set in OAH case number 2013030776 (First Case) are vacated.
3. The dates previously set in OAH case number 2013031079 (Second case) will remain on calendar as currently set. (Mediation: May 7, 2013, telephonic prehearing conference: May 13, 2013, and hearing: May 21, 2013.) If the parties wish a continuance of those dates, the parties should file a motion or joint stipulation containing proposed new dates for the mediation, prehearing conference and hearing.
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 Student's case, OAH Case Number 2013031079 (Second Case).

Dated: April 2, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings