

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013090156
FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013100621 ORDER GRANTING JOINT MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On September 4, 2013, Student filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing in OAH case number 2013090156 (First Case), naming the Folsom Cordova Unified School District (District). This matter is currently scheduled for hearing starting October 29, 2013, with a prehearing conference (PHC) on October 21, 2013.

On October 16, 2013, the District filed a Request for Due Process Hearing in OAH case number 2013100621 (Second Case), naming Student. This matter is currently scheduled for hearing beginning on November 19, 2013, with a PHC on November 15, 2013.

On October 16, 2013, the District filed a Motion to Consolidate the First Case with the Second Case. On October 18, 2013, the parties filed a Joint Stipulation to Consolidation of both matters. The parties further request that the dates for the First Case be vacated and that the parties will confer regarding mutually agreed-upon continuance dates, or in the alternative the parties request that the consolidated matters now proceed on the dates set for the Second Case.

APPLICABLE LAW

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].)

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).)

DISCUSSION

Here, the First Case and the Second Case involve common questions of fact and law. Student identifies three issues for hearing with numerous sub-issues. In summary, Student alleges that the District has denied her a free appropriate public education (FAPE) during the 2012-2013 and 2013-2014 school years by failing to offer adequate related services, failing to develop measurable goals in all areas of need, and failing to offer an appropriate educational placement in the least restrictive environment with inclusion services and the support of a one-to-one aide. Additionally, Student alleges the District failed to assess her during the 2012-2013 school year in all areas of need and violated her procedural rights by predetermining her placement and failing to timely complete all assessments. The District identifies one issue in its complaint which mirrors a portion of Student's Issue One: whether the February 2013 individualized education program (IEP) constitutes an offer of FAPE in the LRE for the 2013-2014 school year. Given the overlapping issues, consolidation is warranted and will prevent the risk of inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve the introduction of the same or similar documents including relevant assessment reports and IEP's. Accordingly, consolidation is granted.

The parties have demonstrated good cause to continue the dates set for the First Case given the recent filing date of the Second Case. Continuing the dates of the First Case to those calendared for the Second Case will allow the parties an opportunity to mediate in light of the new filing, if they so choose.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the First Case.

ORDER

1. The District's Motion to Consolidate is granted.

2. The parties' joint request for a continuance is granted. All dates previously set in OAH Case Number 2013090156, the First Case, are vacated.
3. The consolidated matter shall now be heard on the dates currently set for the Second Case. Namely, mediation is calendared for November 5, 2013, with a PHC on November 15, 2013, at 1:00 p.m., and the hearing will begin on November 19, 2013, at 9:30 a.m., and shall continue 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 2013090156, the First Case.

Dated: October 21, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings