

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2014020468

v.

ELK GROVE UNIFIED SCHOOL DISTRICT,

ELK GROVE UNIFIED SCHOOL DISTRICT,

OAH Case No. 2014070203

v.

PARENT ON BEHALF OF STUDENT.

ORDER FOLLOWING PREHEARING
CONFERENCE

On July 7, 2014, Administrative Law Judge Joy Redmon, Office of Administrative Hearings (OAH), conducted a telephonic prehearing conference (PHC). Attorney Daniel Shaw appeared on Student's behalf. Attorney Cathy Holmes appeared on Elk Grove Unified School District's (Elk Grove's) behalf. The PHC was recorded.

Motion to Consolidate

Student's amended due process hearing complaint was filed on May 16, 2014, and designated as OAH 2014020468 (Student's case). On July 1, 2014, Elk Grove filed a due process hearing complaint and a motion to consolidate its case with Student's case. Elk Grove's case is designated as OAH 2014070203 (Elk Grove's case). On July 3, 2014, Student filed a non-opposition to Elk Grove's motion to consolidate.

Although no statute or regulation specifically provides the applicable standard for deciding motions to consolidate special education cases, OAH generally consolidates matters involving: a common question of law or fact; the same parties; and when consolidating furthers 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, Student's case and Elk Grove's case involve common questions of law and fact. Specifically, both cases raise issues regarding the 2014-2015 school year. Consolidation

furthering judicial economy because the cases involve overlapping time periods, similar issues, and witnesses. Accordingly, consolidation is granted.

When consolidation is granted, OAH designates one case as the primary case. In this case, OAH Case No. 2010270203, Elk Grove's case, is designated as primary and the applicable timelines in that case will apply to the consolidated cases.

Motion for Continuance

After consolidation was granted, Student moved to vacate the dates set in the consolidated case because the parties intend to hold another individualized education program (IEP) meeting to fully address Student's upcoming school year. Elk Grove joined in the motion to continue.

A due process hearing must be conducted and a decision rendered within 45 days of receiving the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) The law mandates speedy resolution and a continuance will only be granted upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court concerning motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

In this case the parties established good cause to continue the consolidated case. Therefore, the motion to continue is granted and the dates previously scheduled in OAH Case Numbers 2014020468 and 2014070203 are vacated.

ORDER

1. Elk Grove's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2014020468, Student's case, and 2014070203 Elk Grove's case, are vacated.
3. Student's Motion to Continue is granted. The consolidated matter will be scheduled for a telephonic prehearing conference on October 20, 2014, at 1:00 p.m. and the due process hearing in the consolidated case shall begin on October 28, 2014, at 9:30 a.m., and continue day to day, Monday through Thursday, as needed and at the discretion of the Administrative Law Judge.¹

¹ If the parties wish to mediate the consolidated the case, they may submit that request to OAH in writing.

4. The timeline for issuing the decision in the consolidated case shall be based upon the date the complaint was filed in OAH Case Number 2014070203, Elk Grove's case.

IT IS SO ORDERED.

DATE: July 7, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings