

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

POWAY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014040785
(Primary Case)

POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT

OAH CASE NO. 2014041221

ORDER GRANTING MOTION TO
CONSOLIDATE AND SETTING
DATES FOR CONSOLIDATED
CASE

On April 16, 2014, Student filed a Request for Due Process Hearing in OAH case number 2014040785 (Student's Case), naming Poway Unified School District (District). Student's case is set for hearing on June 10, 2014.

On April 24, 2014, District filed a Request for Due Process Hearing in OAH case number 2014041221 (District's Case), naming Student. District's case is set for hearing on May 20, 2014.

On May 7, 2014, the parties filed a Stipulation to Consolidate Student's Case with District's Case, vacate all dates in District's Case, and schedule all proceedings in the consolidated cases to the dates set in Student's 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 common questions of law or fact, and the parties have jointly requested the consolidation. The issues in both cases concern whether District provided appropriate placement and services for Student during the 2013-14 school year and offered appropriate placement and services for Student during the 2014-15 school year. Consolidation furthers the interests of judicial economy because both cases involve the same issues, witnesses and exhibits. Accordingly, consolidation is granted. Case Number 2014040785 (Student's Case) is designated the primary case.

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).)

There is good cause to grant the joint motion of the parties to continue the hearing dates set in District's Case to the dates set in Student's Case because the cases are consolidated, this is the first request to continue either case, the parties have stipulated to proceed on the dates initially set in Student's case, and the dates set in Student's Case allow time for a resolution session and mediation.

ORDER

1. The Joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014041221 (District's Case) are vacated.
3. Case Number 2014040785 (Student's Case) is designated the primary case and the consolidated case shall proceed on the dates set, as follows: Mediation: May 21, 2014 from 9:30 a.m. to 4:30 p.m.; Prehearing Conference: June 2, 2014 at 3 p.m.; and Due Process Hearing: June 10, 2014, at 9:00 a.m., 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 2014040785 (Student's Case).

DATE: May 09, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings