

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014080831

PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014120055

ORDER AFTER PREHEARING
CONFERENCE GRANTING
CONSOLIDATION AND
CONTINUANCE AND SETTING NEW
DATES

On December 1, 2014, a telephonic prehearing conference in OAH Case Number 2014080831 was held before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings. Attorney Sarah L. Garcia appeared on behalf of the Sacramento City Unified School District. Attorney Letecia N. Whetstone appeared on behalf of Student and Parents. The conference was recorded.

1. Motion for Consolidation: During the PHC, Student's motion for consolidation was discussed. On August 25, 2014, Sacramento filed a request for a due process hearing (complaint) with OAH naming Student, and bearing OAH Case Number 2014080831 (Sacramento's case). On September 5, 2014, OAH granted a continuance of that matter. Sacramento's case is set for a due process hearing to begin on December 9, 2014.

On November 21, 2014, Student filed a complaint naming Sacramento (Student's case). On the same date, Student filed a motion to consolidate her case with Sacramento's case.¹ On November 24, 2014, Sacramento filed a response supporting the motion. On December 2, 2014, after the PHC, OAH designated Student's case as OAH Case Number 2014120055, and issued a scheduling order setting the matter for a due process hearing to begin on January 15, 2015.

¹ In the future, Student should independently file new complaints and not merely attach them as exhibits to other motions.

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, Sacramento's case and Student's case involve common questions of law or fact and consolidation furthers the interests of judicial economy because many of the witnesses and documents regarding these intertwined issues will be the same. For these reasons, Sacramento supports the motion. Accordingly, consolidation of Sacramento's case with Student's case is granted.

2. Continuance: Since the motion to consolidate the cases is granted, a continuance of Sacramento's hearing dates is necessary to accommodate the legal requirements for a resolution session in Student's case during the initial 30 days after the filing of her case. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510 (a)(1).) 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), and 56505, subd. (f)(1)(C)(3).)

Here, the parties agreed during the PHC that the resolution session requirements constituted cause to continue the matter.² In addition, based on discussion with the parties and consideration of all relevant schedules, the parties consented to mutually agreeable dates in January and February 2015, as ordered below. Accordingly, all dates currently set in both Sacramento's case and Student's case are vacated and continued.

3. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purpose of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

4. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the next prehearing conference.

5. Settlement: The dates ordered below will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of a signed settlement

² However, the parties failed to meet and confer prior to the PHC to discuss continued dates even though they understood a continuance would be necessary as part of the consolidation process.

