

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CASTRO VALLEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015010039
CASTRO VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015020202 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On December 23, 2015, Parent filed a due process hearing request on Student’s behalf in Office of Administrative Hearings case number 2015010039 (First Case), naming the Castro Valley Unified School District.

On January 29, 2015, Castro Valley filed a due process hearing request in OAH case number 2015020202 (Second Case), naming Student.

On January, 29, 2015, Castro Valley filed a Motion to Consolidate the First Case with the Second Case and requested that the matters proceed on the dates set forth in the Second Case, OAH Case No. 2015020202.¹ Student did not submit a response.

APPLICABLE LAW AND DISCUSSION

Consolidation

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases; however, OAH will generally consolidate

¹ As set out below, Student’s case has been designated as the lead case. Therefore, Castro Valley’s request to proceed on the dates in its case has been treated as a request to continue.

matters that involve: common questions of law 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 a common question of law or fact, specifically, each case seeks a ruling regarding whether or not Castro Valley offered Student a free appropriate public education for the 2013-2014 school year. Consolidation furthers the interest of judicial economy because the cases involve the same parties and likely the same witnesses. Accordingly, consolidation is granted. The First Case, OAH Case No. 2015010039 is deemed the lead case for purposes of determining the 45-day time line to issue a written decision.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receiving the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

In seeking consolidation, Castro Valley requested that the dates in the First Case, OAH Case No. 2015010039 be vacated. No dates were proposed by Castro Valley to fill the vacuum created by vacating dates. Therefore, OAH assumes that Castro Valley was requesting the consolidated matters proceed on the dates set out in the Second Case, OAH Case No. 2015020202. Because the First Case has been designated as the lead case, Castro Valley's request is treated as a request to continue the consolidated matters. The request is granted.

ORDER

1. Castro Valley's motion to consolidate is granted.
2. OAH Case No. 2015010039 [First Case] is deemed the lead case for calculating the applicable timelines.
3. Castro Valley's request to continue is granted and the dates previously set in the First Case are vacated.
4. The consolidated matter will proceed as follows:
Mediation: February 12, 2015, 9:30 AM - 4:30 PM
Prehearing conference: February 20, 2015, at 10:00 AM

Due process hearing: February 26, 2015, 9:30 AM - 5:00 PM, and day to day thereafter, Monday through Thursday at the discretion of the Administrative Law Judge.²

DATE: February 9, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings

² Nothing in this order precludes the parties from filing a request to continue for good cause the dates set herein.