

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015020031

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT,

DAVIS JOINT UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015030307

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On January 30, 2015, Student filed a request for a due process hearing in OAH case number 2015020031 (First Case), naming Davis Joint Unified School District as respondent.

On March 5, 2015, Davis filed a request for a due process hearing in OAH case number 2015030307 (Second Case), naming Student as respondent.

On March 5, 2015, Davis filed a motion to consolidate the First Case with the Second Case and to continue the due process hearing date set in Case Number 2015020031 (First Case).¹

On March 10, 2015, Student filed an opposition to the motions asserting that the matter needed to proceed to hearing expeditiously. Other than a general objection, Student did not cite any specific reason why consolidation of the matters was not appropriate.

¹ The parties have a third case pending OAH Case No. 2015020729. Nothing in this order applies to that case.

APPLICABLE LAW AND DISCUSSION

Consolidation

No statute or regulation specifically provides a standard for deciding a motion to consolidate special education cases. The Office of Administrative Hearings will generally consolidate matters that involve: common questions of law or fact; the same parties; and when consolidation 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 and fact. Specifically, in addition to other allegations, both cases seek a determination of whether or not Davis offered and provided Student a free appropriate public education during the 2014-2015 school year. In addition, consolidation furthers the interests of judicial economy because the cases will likely have many of the same witnesses and evidence and there is a possibility of inconsistent rulings if the matters are not consolidated. Accordingly, consolidation is granted.

Upon consolidation, OAH must determine the case that will be considered the primary case for the purpose of calculating the applicable timelines. Student's case, OAH Case No. 2015020031, will be considered 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).)

In addition to the motion to consolidate, Davis made a motion to continue the consolidated matter to the dates currently set in its case. Good cause has been established to continue the consolidated matter to those dates to give the parties an opportunity to adequately prepare for hearing. The motion to continue is granted.

ORDER

1. Motion to Consolidate is granted.
2. First case, OAH Case No. 2015020031 will be designated as the primary case for determining the applicable timelines.
3. The Motion to Continue is granted.

4. All dates currently set in Student's case will be vacated and the matter will proceed on the dates set forth in OAH Case No. 2015030307 (Second Case).

DATE: March 11, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings