

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015060035

v.

TEHACHAPI UNIFIED SCHOOL
DISTRICT,

TEHACHAPI UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015061178

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On May 19, 2015, parents on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings in case number 2015060035 (Student's Case), naming Tehachapi Unified School District. On June 1, 2015, OAH issued a scheduling order in Student's Case with a hearing date of July 14, 2015. On June 18, 2015, District filed a request for a continuance of the hearing dates in Student's Case. On June 25, 2015, OAH granted the continuance and issued an amended scheduling order in Student's Case with the pre-hearing conference set for October 2, 2015 at 10:00 a.m., and the due process hearing set for October 12 through 15, 2015, starting at 1:30 p.m. the first day, and 9:00 a.m. thereafter.

On June 26, 2015, District filed a Request for Due Process Hearing with OAH in case number 2015061178 (District's Case). On June 30, 2015, OAH issued a scheduling order in District's Case with a hearing date of July 23, 2015.

On July 14, 2015, District filed its Motion to Consolidate Student's Case with District's Case (Motion). No opposition to the Motion was filed by Student.

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, Student's Case and District's Case involve a common question of law or fact, specifically, the appropriateness of Student's special education assessments, the discussions of such assessments at the individualized education program team meetings, and offer of a free appropriate public education for the same/overlapping time period based on the same assessments. In addition, consolidation furthers the interests of judicial economy because the same witnesses will need to testify in both cases and the same documentary evidence, including the appropriateness of the IEP offer, the appropriateness of the special education assessments, and discussions of same at the IEP team meetings will need to be considered. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015061178, District's Case are vacated, and continued.
3. 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 2015060035, Student's Case.
4. The PHC and DPH dates will remain the same as set forth in OAH's June 25, 2015 order granting continuance and setting PHC/DPC dates in Student's Case:

Prehearing conference: October 2, 2015 at 10:00 a.m.

Due process hearing: October 12 through 15, 2015, starting at 1:30 p.m. the first day, and 9:00 a.m. thereafter and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

5. The primary case shall be Student's Case, and the parties shall use the consolidated caption for all filings after this date.

Dated: July 17, 2015

/s/

SABRINA KONG

Administrative Law Judge

Office of Administrative Hearings