

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

RIO ELEMENTARY SCHOOL DISTRICT,

OAH Case No. 2015070030
[Primary]

RIO ELEMENTARY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015060745

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On June 15, 2015, District filed a Request for Due Process Hearing in OAH case number 2015060745 (District's Case), naming Student.

On June 29, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015070030 (Student's Case), naming District.

On June 29, 2015, Student filed a Motion to Consolidate District's Case with Student's Case. On June 30, 2015, District filed a Non-Opposition to the motion to consolidate, asking that the dates in the consolidated action be set for 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, District's Case and Student's Case involve common questions of law and fact, specifically, the issue of whether District offered Student a free appropriate public education

during the 2015 – 2016 school year. Student’s case adds the issue of FAPE for the 2014 – 2015 school year. It is anticipated that some of the same witnesses and much of the same documentary evidence will be produced by the parties to prove or disprove a FAPE for each of the school years at issue. District does not oppose the motion. Hence, consolidation furthers the interests of judicial economy. Accordingly, consolidation is granted.

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).)

District’s Non-Opposition and request to set the consolidated matter on the dates in Student’s Case is understood to be a motion to continue the dates in District’s Case to the dates in Student’s Case. The requested continuance results in a hearing in the consolidated matter on agreed dates less than 45 days from the initial hearing date set in District’s Case. District’s request also allows the parties an opportunity to participate in mediation. There is good cause to continue District’s Case to the dates set in Student’s Case.

ORDER

1. Student’s Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015060745 (District’s Case) are vacated.
3. District’s Motion to Continue is granted. The consolidated matters shall be set on the dates currently set in OAH Case Number 2015070030 (Student’s Case):
 - Mediation: July 30, 2015 at 9:30 a.m.
 - PHC: August 10, 2015, at 1:00 p.m.
 - Hearing: August 20, 2015, at 9:30 a.m., and continue 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 2015070030, Student’s Case.

DATE: July 01, 2015

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings