

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015111033

v.

ETIWANDA SCHOOL DISTRICT,

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015090504

v.

ETIWANDA SCHOOL DISTRICT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND VACATING
DATES

On September 8, 2015, Student filed with the Office of Administrative Hearings a request for due process hearing (complaint) in OAH case number 2015090504 (Student's First Case), naming Etiwanda School District. A prehearing conference is set for February 12, 2016, and the due process hearing is set for February 22-25, and March 1-2, 2016.

On November 24, 2015, Student filed another complaint in OAH case number 2015111033 (Student's Second Case), also naming Etiwanda. A mediation is set for March 16, 2016 in this case, with a PHC set for March 21, 2016, and a due process hearing set for March 28-31, 2016.

On February 3, 2016, parties filed a joint motion to consolidate both cases and to continue the prehearing conference, and due process hearing dates set in Student's First Case, OAH case number 2015090504, to the dates currently set for prehearing conference and due process hearing in Student's Second Case, OAH case number 2015111033.

APPLICABLE LAW

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].)

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).)

DISCUSSION

Student's First Case concerns multiple acts and omissions of Etiwanda during the 2014-2015 school year that Student claims denied him a free appropriate public education substantively and/or procedurally. Student's Second Case concerns Etiwanda's individualized education program offer of placement of Student in a special day class for the 2015-2016 school year. Here, it appears that some of the matters at issue for the 2014-2015 school year may have some bearing on Etiwanda's placement offer for the 2015-2016 school year. In addition, consolidation furthers the interests of judicial economy because some the same witnesses may need to testify about the issues in both cases. Etiwanda has joined in the motion to consolidate. Accordingly, consolidation is granted. The 45-day timeline for issuance of a decision shall be based on Student's Second Case, and all dates in Student's First Case shall be vacated.

The parties have asked that the PHC for the consolidated matters proceed on March 21, 2016, and the due process hearing be held on March 28-31, 2016, dates currently set in Student's Second Case, and have asked that two additional days of hearing be added. Although the parties refer to this as a motion for continuance of Student's First Case, it is simply a request to vacate hearing dates in that case if the motion to consolidate is granted. This Order vacates the dates in Student's First Case, which renders the motion for continuance moot. The parties can address the need for additional hearing days with the administrative law judge conducting the PHC on March 21, 2016.

ORDER

1. The parties' joint motion to consolidate is granted.
2. All dates previously set in OAH case number 2015090504 are vacated.
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 2015111033.

4. If the parties believe additional hearing dates may be necessary for the consolidated cases beyond those already set, they can discuss additional dates at the PHC on March 21, 2016.

IT IS SO ORDERED.

DATE: February 8, 2016

/S/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings