

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT,	OAH CASE NO. 2012080122
PARENT ON BEHALF OF STUDENT, v. ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT.	OAH CASE NO. 2012090246 ORDER GRANTING DISTRICT'S MOTION TO CONTINUE AND GRANTING DISTRICT'S MOTION TO CONSOLIDATE

On August 3, 2012, Parent on behalf of Student filed a request for due process hearing in Office of Administrative Hearings (OAH) case number 2012080122 (First Case), naming the Antelope Valley Union High School District (District).

On September 7, 2012, Parent on behalf of Student filed a request for due process hearing in OAH case number 2012090246 (Second Case), naming District.

On October 10, 2012, District filed a motion to consolidate the First Case with the Second Case. Implicit in the motion is a request to continue the hearing date in the Second Case from November 6, 2012 to November 13, 2012.

Student did not file a response to the motion.

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 motion seeks to have the First Case and the Second Case heard on the same day, in part because the same witnesses will testify as to the conduct of the parties during the 2010-2011 school year at issue in both cases. The Second Case is scheduled for a one-day hearing on November 6, 2012, and the First Case, due to a resetting of dates by an order following a prehearing conference, is scheduled for a one-day hearing on November 13, 2012. The common witness should not be required to appear twice in two weeks for purposes of testifying to common facts, and the convenience of common witnesses and the expeditious presentation of their testimony constitute good cause for a continuance of the hearing date in the Second Case to case to November 13, 2012.

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, the First Case and Second Case involve common questions of law and fact, specifically, whether District's actions in changing Student's placement during the 2010-2011 school year (First Case), and allegedly failing to provide services mandated by Student's individualized education program (IEP) during the 2010-2011 school year (Second Case), deprived Student of a free appropriate public education. Student does not oppose the motion. Consolidation furthers the interests of judicial economy because the cases involve the same witnesses, evidence and questions of law, and will avoid the repetitive presentation of common evidence. Accordingly, consolidation is granted.

ORDER

1. District's motion to continue the hearing date in the Second Case to November 13, 2012, is granted.
2. District's motion to consolidate the First Case and the Second Case is granted. All dates currently set in the First Case, and the prehearing conference date in the Second Case, are vacated.
3. The mediation in the above-captioned consolidated cases shall be held on October 23, 2012 at 9:30 a.m., the prehearing conference in the consolidated cases shall be held on November 5, 2012 at 1:30 p.m. and the due process hearing in the consolidated cases shall be held on November 13, 14 and 15, 2012, starting at 9:30 a.m. on the first day.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the filing date in OAH case number 2012090246 (Second Case).

Dated: October 17, 2012

/s/

ALEXA HOHENSEE
Administrative Law Judge
Office of Administrative Hearings