

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH Case No. 2014020774

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND GRANADA HILLS
CHARTER HIGH SCHOOL,

PARENTS ON BEHALF OF STUDENT,

OAH Case No. 2014030550

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND GRANADA HILLS
CHARTER HIGH SCHOOL.

ORDER GRANTING JOINT REQUEST
TO CONSOLIDATE AND DENYING
REQUEST TO SET MEDIATION
DURING THE 30-DAY RESOLUTION
PERIOD

On February 24, 2014, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2014020774 (First Case) naming the Los Angeles Unified School District (Los Angeles) and the Granada Hills Charter High School (Granada Hills). Pursuant to OAH's order dated March 4, 2014, the First Case was amended by Student on March 18, 2014, and all applicable timelines for a due process hearing were reset as of that date.

On March 11, 2014, Student filed a second Request for Due Process Hearing in OAH case number 2014030550 (Second Case). The Second Case also named Los Angeles and Granada Hills.

On March 25, 2014, all of the parties filed a joint stipulation to consolidate the First Case with the Second Case, and requested that the mediation date currently set for April 22, 2014, in the First case be reset for April 2, 2014.

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 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); Code of Civ. Proc., § 1048, subd. (a).) The California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

Resolution Session

A school district must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1), (2); Ed. Code, § 56501.5, subd. (a).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (Id. at § 300.510 (a)(3)(i); § 56501.5, subd. (b)) or if the parent and school district agree to use mediation instead of a resolution session (Id. at § 300.510 (a)(3)(ii); § 45401.5, subd. (b)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (Id. at § 300.510(c)(1); 56501.5, subd. (d)(1).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (Id. at § 300.510(c); also see 56501.5, subd. (d).)

DISCUSSION

Motion to Consolidate

In the First Case, Student contends that since December 2013, Los Angeles and Granada Hills denied her a free appropriate public education (FAPE) by failing to provide her with required assessments in all areas of needs, and by failing to provide her with appropriate educational program, placement and services. In the First Case, Student also alleges that she is entitled to compensatory services, and that she requires placement at Fusion Academy with counseling and therapy services. In the Second Case, Student alleges that Los Angeles and Granada Hills denied her a FAPE by failing to provide her with her complete and comprehensive educational records. All parties stipulate that the cases involve common questions of law, the same parties and same or similar underlying facts. Thus, all request consolidation of the two cases.

The issues raised in both cases involve Student's unique educational needs, and involves the question of whether Los Angeles and Granada Hills offered required assessments or provided Student with appropriate educational program, placement and services to Student during the relevant period. The two cases involve the question of whether Los Angeles and Granada Hills met their FAPE obligations to Student during the relevant period. Evaluating and resolving these issues would involve the same evidence and

witnesses, and the analysis and resolution of the same questions of law. Therefore, consolidating the cases will promote judicial economy. Accordingly, consolidation is granted.

Request to Reset Mediation Date

When the parties agree in writing to waive a resolution session, OAH will move forward the dates for mediation, into the 30-day resolution session time period. In these matters, while the parties have requested that the mediation date be set for April 2, 2014, they have not submitted any agreement in writing indicating that they intend to waive the resolution session or use mediation in lieu of the resolution session.

The date requested by the parties is within the 30-day resolution period in the two cases. OAH cannot unilaterally advance the timelines or waive the resolution session for the parties. Therefore, because the parties have not expressed a desire to advance the hearing timeline, or use mediation in lieu of a resolution session, OAH cannot set mediation in these matters within the 30-day resolution period. Accordingly, the parties' request to reset the mediation date in these matters for April 2, 2014, is denied. The dates in the matters shall remain as currently set in OAH Case No. 2014020774 (First Case).

ORDER

1. Parties' request to consolidate the two cases is granted.
2. The consolidated matters shall proceed based on the timeline established in OAH Case Number 2014020774 (First Case).
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 2014020774 (First Case), as amended on March 18, 2014.
4. All dates previously set in OAH Case Number 2014030550 (Second Case) are vacated.
5. The request to set the mediation date for April 2, 2014, is denied.

DATE: March 26, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings