

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

DESERT SANDS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014051076
(Primary)

OAH Case No. 2014031057

ORDER FOLLOWING PREHEARING
CONFERENCE OF JUNE 6, 2014;
GRANTING CONSOLIDATION;
GRANTING REQUEST FOR
CONTINUANCE

On June 6, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Paul Kamoroff, Office of Administrative Hearings (OAH). Student's mother appeared on behalf of Student (Student). Dina Harris, Attorney at Law, appeared on behalf of the Desert Sands Unified School District (District). The PHC was recorded.

On June 5, 2014, Student submitted a request for continuance based in part upon a recent death in Student's family, and a request for consolidation with OAH Case Number 2014031057. On June 6, 2014, District submitted a response to Student's request for continuance.

Request for 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, OAH Case Number 2014051076 and OAH Case Number 2014031057 involve identical parties and similar witnesses. Consolidation of the two cases will result in a single hearing, which furthers the interest of judicial economy. Accordingly, Student's request for consolidation is granted.

Request for Continuance

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted.

ORDER

1. OAH Case Number 2014051076 and OAH Case Number 2014031057 are consolidated.
2. All dates previously set in OAH Case Number 2014051076 and OAH Case Number 2014031057 are vacated.
3. The consolidated matter shall be set as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	8/29/2014, at 10:00 a.m.
Due Process Hearing:	9/9/2014; 9/10/2014; 9/11/2014, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on the first day of hearing, and at 9:00 a.m. on all other days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: June 06, 2014

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings