

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH Case No. 2016030128

v.

OCEANSIDE UNIFIED SCHOOL  
DISTRICT,

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OCEANSIDE UNIFIED SCHOOL  
DISTRICT,

OAH Case No. 2016030134

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING JOINT MOTION  
TO CONSOLIDATE AND PARTIALLY  
GRANTING JOINT MOTION TO  
CONTINUE

On February 29, 2016, Student filed a request for due process hearing with the Office of Administrative Hearings in OAH case number 2016030128, naming the Oceanside Unified School District. On the same date, Oceanside filed a request for due process hearing naming Student in OAH case number 2016030134.

On March 22, 2016, the parties filed a joint stipulation to consolidate their cases and to continue the consolidated matter to May 16 and 17, 2016. OAH has treated the parties' joint stipulation as a joint motion to consolidate and continue the cases.<sup>1</sup>

*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].)

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<sup>1</sup> The parties do not have authority to unilaterally consolidate or continue their cases. They must do so by filing a motion with OAH.

Here, Student's and Oceanside's cases both ask OAH to determine whether the individualized education program Oceanside offered Student on June 1, 2015, as amended on June 9, 2015, would provide Student with a free appropriate public education. The issues raised are nearly identical. The cases raise common questions of law and fact, and will involve much of the same evidence and many of the same witnesses. Consolidation of the cases therefore furthers the interests of judicial economy.

### *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).) Here, the parties have requested to continue the prehearing conference and due process hearing to mutually agreeable dates. It is the first continuance requested by either party.

The parties have shown good cause for the continuance and their motion to continue is partially granted. OAH is not able to accommodate the request to begin the hearing on May 16, 2016. OAH therefore has continued the hearing to May 17 through 19, 2016.

### ORDER

1. The parties' joint motion to consolidate is granted.
2. All dates previously set in OAH Case Numbers 2016030128 [Student's Case] and 2016030134 [Oceanside's Case] are vacated.
3. The parties' joint motion to continue is partially granted. The prehearing conference in the consolidated cases shall be held on May 9, 2016, at 10:00 a.m. The due process hearing in the consolidated cases shall be held on May 17 through 19, 2016, 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 May 17, 2016, and at 9:00 a.m. all other days, unless otherwise ordered.

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 2016030128 [Student's Case].

DATE: March 25, 2016

DocuSigned by:

*Darrell Lepkowsky*

~~A22818201132490~~  
DARRELL LEPKOWSKY

Administrative Law Judge  
Office of Administrative Hearings