

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH CITY SCHOOL
DISTRICT,

OAH Case No. 2016030963

HUNTINGTON BEACH CITY SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015120546

ORDER GRANTING MOTION TO
CONSOLIDATE; GRANTING
REQUEST FOR CONTINUANCE;
SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On December 11, 2015, Huntington Beach City School District filed a Request for Due Process Hearing in Office of Administrative Hearing case number 2015120546 (District's Case), naming Parents on behalf of Student.

On March 17, 2016, Student filed a Request for Due Process Hearing in OAH case number 2016030963 (Student's Case), naming District.

On March 25, 2016, the parties jointly filed a Motion to Consolidate Student's Case with District's Case, and to continue the hearing dates for the consolidated matter.

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, Student's Case and District's Case involve a common question of law or fact, including similar questions related to Student's education needs and program. Accordingly, 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. The parties' Motion to Consolidate is granted.
2. 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 2016030963 (Student's Case).
3. The parties' Motion for a Continuance is granted. Therefore, all hearing dates previously set in OAH case numbers 2016030963 (Student's Case) and 2015120546 (District's Case) are vacated.
4. The matter shall be set as follows:

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|------------------------|--|
| Prehearing Conference: | June 6, 2016, at 3:00 p.m. |
| Due Process Hearing: | June 13 through 16, 2016, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The |

hearing shall begin at 1:30 p.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: March 28, 2016

DocuSigned by:

Paul H. Kamoroff /S/

PAUL H. KAMOROFF

Administrative Law Judge

Office of Administrative Hearings