BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015030954
TEHACHAPI UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015050934 ORDER GRANTING STUDENT'S MOTION TO AMEND COMPLAINT AND DISTRICT'S MOTION TO CONSOLIDATE AND CONTINUE THE DATES IN DISTRICT'S CASE

On March 20, 2015, Student filed a Due Process Hearing Request with the Office of Administrative Hearings in OAH case number 2015030954, naming Tehachapi Unified School District (Student's Case). The hearing in Student's case is scheduled to begin on June 16, 2015. On May 22, 2015, District filed a Request for Due Process Hearing in OAH case number 2015050934 (District Case), naming Student. The hearing in District's Case is scheduled to begin on June 17, 2015.

On May 29, 2015, District filed a Motion to Consolidate Student's case with District's Case and to have District's Case heard on the hearing dates scheduled in Student's Case. Student filed no opposition to the motion to consolidate.

On June 3, 2015, Student filed a Motion to Amend the Due Process Hearing Request, along with the proposed first amended complaint.

On June 3, 2015, District filed a response to the motion to amend and errata to its motion to consolidate. District stated it had no opposition to the motion to amend and requested that both cases be heard based on the new dates scheduled as a result of Student's motion to amend.

Motion to Amend

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)[1] The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student's amended complaint contains new issues not in Student's original complaint. The hearing in Student's Case is scheduled to begin on June 16, 2015, and District did not oppose Student's motion to amend. Student's request to amend is timely and is granted. The amended complaint shall be deemed filed as of June 5, 2015, and all applicable timelines shall be reset as of June 5, 2015. OAH will issue a scheduling order with the new dates. All prior dates are vacated.

Motion to Consolidate

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].)

Student's Case and District's Case involve common facts. The facts alleged in both complaints concern the 2014 triennial assessments and the December 18, 2014 IEP. Student did not oppose the motion. Consolidation furthers the interests of judicial economy because the cases will involve some of the same witnesses and exhibits. Accordingly, consolidation is granted. OAH case number 2015030954 (Student's Case) is designated the primary case.

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).)

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[1] All statutory citations are to Title 20 United States Code unless otherwise indicated.

In this case, District has requested that dates for its case be continued to the new dates scheduled as a result of Student's motion to amend. There has been no prior continuance in District's Case which is now consolidated with Student's case. There is good cause to continue District's Case to the new dates scheduled in Student's Case.

ORDER

1. Student's motion to amend is timely and is granted.
2. Student's amended complaint shall be deemed filed as of June 5, 2015.
3. All applicable timelines in Student's Case shall be reset as of June 5, 2015.
4. District's motion to consolidate is granted.
5. All prior dates in Student's case (OAH case number 2015030954) and District's case (OAH case number 2015050934) are vacated.
6. OAH will issue a scheduling order with the new dates.
7. District's motion to continue District's Case to the new dates set in Student's Case is granted.
8. 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 2015030954 (Student's Case) which is designated the primary case in this consolidated matter.

DATE: June 05, 2015

/S/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings