BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2021020128

and

LOS ALAMITOS UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2021030289

ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING REQUEST TO RESET TIMELINES AND CONTINUE THE HEARING

MARCH 12, 2021

On February 3, 2021, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2021020128, Student's Case, naming Los Alamitos Unified School District. On March 8, 2021, OAH granted the parties' joint request for a March 29, 2021 mediation and a continuance of the prehearing conference to April 19, 2021 and the due process hearing to April 27 through April 29, 2021.

On March 8, 2021, Los Alamitos filed a Request for Due Process Hearing in OAH case number 2021030289, District's Case, naming Student. The same day, Los Alamitos filed a request to consolidate Student's Case with District's Case and to reset the timelines so the Los Alamitos could attempt to resolve the consolidated matters. Student did not file a response to the motion.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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, specifically, both cases ask OAH to decide the appropriateness of the October 9, 2020 psychoeducational assessment. In addition, consolidation furthers the interests of judicial economy by saving time since both cases would involve some of same witnesses testifying and presentation of some of the same documentary evidence. Accordingly, consolidation is granted.

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. OAH considers all relevant facts and circumstances in determining whether good cause exists to grant an extension. (See Cal. Rules of Court, rule 3.1332(d).)

Los Alamitos asks that the timelines be reset so that it can attempt to resolve both matters. OAH does not reset timelines when granting a motion to consolidate. OAH interprets the request to reset timelines as a motion to continue the due process hearing. The motion to continue is denied. On March 8, 2021, OAH granted the parties' joint for mediation and continuance of the due process hearing. Los Alamitos has failed to demonstrate good cause for a further continuance. The motion also fails to offer any new proposed hearing dates and fails to state that Los Alamitos attempted to meet and confer with Student's counsel regarding any proposed new dates.

ORDER

1. Los Alamitos's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in District's Case, OAH case number 2021030289, are vacated.
3. Los Alamitos' Motion to reset the timelines and continue the hearing is denied. The consolidated matter shall proceed on the dates previously set in Student's Case, OAH case number 2021020128 as follows: Mediation in the consolidated matter shall be held on March 29, 2021, 9:00 AM to 4:30 PM. The Prehearing Conference in the consolidated matter shall be held on April 19, 2021, at 1:00 PM, and the Due Process Hearing in the consolidated matter shall be held on April 27 through 29, 2021, beginning at 9:30 AM on all days unless otherwise ordered, continuing day to day as needed at the discretion of the Administrative Law Judge.
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 the primary case, Student's Case, OAH case number 2021020128.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings