BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
ORINDA UNION SCHOOL DISTRICT,	OAH Case No. 2017060787
v.	ORDER DENYING MOTION TO CONSOLIDATE AND MOTION TO CONTINUE
PARENT ON BEHALF OF STUDENT.	

On June 16, 2017, Orinda Union School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017060787 (District's Case), naming Parent on behalf of Student. This matter is pending hearing on August 22, 2017.

On August 15, 2017, Student filed a Request for Due Process Hearing in OAH case number not yet assigned (Student's Case), naming Orinda.

On August 15, 2017, Student filed a Motion to Consolidate Student's Case with District's Case. In the event OAH denies the request to consolidate, Student is seeking a continuance of the due process hearing to October 16, 2017 as her expert has not yet assessed Student.

On August 18, 2017, Orinda filed an objection to consolidation on the ground that Student's motion is untimely; the one similar issue identified by Student is necessarily included within the District-filed case; and consolidation would result in an undue expansion of the District's Case. Orinda opposes a continuance as it has prepared for hearing and would suffer prejudice, and Student has failed to establish good cause.

APPLICABLE LAW AND DISCUSSION

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 identifies numerous substantive and procedural issues of Orinda's alleged failure to provide Student a free appropriate public education during the 2015-2016 and 2016-2017 school years, including extended school years. Student identifies one issue that overlaps with the issue raised by Orinda in District's Case, namely whether Orinda unreasonably delayed in filing a complaint to defend its May 2017 educationally related mental health services evaluation. Orinda seeks to defend the appropriateness of this evaluation and obtain an order that Student is not entitled to an independent educational evaluation in the area of mental health.

Student's Case includes one issue that is an affirmative defense to the issue identified by Orinda. As such, whether Orinda unreasonably delayed in filing its complaint to defend its assessment will necessarily be determined at the hearing on District's Case. Further, consolidating the two matters would result in a substantial expansion of the issues. Consolidation will not further the interests of judicial economy, as the two matters do not involve sufficiently common questions of law or fact.

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).)

Student's motion to continue the hearing fails to demonstrate good cause for a continuance, based on Student's expert not having assessed Student. Needing additional time to complete an independent evaluation does not constitute good cause for a continuance.

ORDER

1. Student's Motion to Consolidate is denied.

2. Student's Motion to Continue is denied. All dates previously set for hearing in this matter shall remain as scheduled.

IT IS SO ORDERED.

DATE: August 21, 2017

DocuSigned by:
Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings