BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: LOWELL JOINT SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT,	OAH Case No. 2015100100
PARENTS ON BEHALF OF STUDENT, v. LOWELL JOINT SCHOOL DISTRICT.	OAH Case No. 2015100387 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On October 2, 2015, Lowell Joint School District filed a Request for Due Process Hearing in OAH case number 2015100100 (District's Case), naming Student.

On October 9, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015100387 (Student's Case), naming District.

On October 9, 2015, Student filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing date set in District's Case. Per a responsive filing on October 14, 2015, District does not object to the motion.

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, the First Case and Second Case involve a common question of law or fact, specifically assessments of Student conducted as part of a comprehensive evaluation of Student in April and May of 2015. In its case, District seeks a ruling that its assessments

appropriately assessed Student for deficits in auditory processing and therefore Student is not entitled to an independent educational evaluation for central auditory processing disorders. Student's Case concerns Student's assertion that District's failure to assess Student for a central auditory processing disorder deprived him of a free and appropriate public education. Consolidation will further the interest of judicial economy by enabling both tightly interrelated questions to be resolved in one action. The burden upon both the witnesses and OAH's resources will be reduced if these matters are heard together. Further, District does not oppose the motion. Accordingly, consolidation is granted.

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 demonstrates good cause for a continuance. Student asks only that the prehearing conference, mediation, and hearing in the consolidated case be continued to accommodate the statutory timelines for a student-filed due process action. The request for continuance is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015100100, District's Case, are vacated.
3. Student's Motion to Continue is granted. Mediation will be held on November 12, 2015, at the District office at 11019 Valley Home Avenue, Whittier, CA 90603. The prehearing conference will be held on November 23, 2015, at 1:00 p.m. The due process hearing shall begin at 9:30 a.m. on December 3, 2015, and continue day to day, Monday through Thursday, as needed at the discretion of the ALJ.
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 2015100100, District' Case.

DATE: October 15, 2015

/s/

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings