BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. WESTMINSTER SCHOOL DISTRICT,	OAH Case No. 2015110276
WESTMINSTER SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016020042 (Primary) ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On November 2, 2015, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2015110276 (Student's Case), naming Westminster School District (District). The matter is set for hearing on February 17, 2016.

On January 27, 2016, District filed a Request for Due Process Hearing in OAH case number 2016020042 (District's Case), naming Parent on Student's behalf.[1] Concurrently, District filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing date set in Student's Case. Student's case is set for hearing on February 16, 2016. Student did not file a response 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

[1] Although at the time this motion was filed OAH had not yet issued a scheduling order on District's case, District's matter is set to commence hearing on February 23, 2016.

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, Student's case alleges that, for the 2014-2015 and 2015-2016 school years, District failed to: properly assess Student in all areas of need; offer an appropriate placement, supports, and services; offer appropriate behavior interventions; and develop appropriate goals and objectives in all areas of need. District's complaint asserts that its May 12, 2015 individualized education program, as amended, offered and provided Student a free appropriate public education. Consolidation furthers the interests of judicial economy because the issues overlap in both cases and will likely involve the same documentary and testimonial evidence. 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).)

District's unopposed motion to continue the consolidated matters demonstrates good cause. Student's case was set for 3 days of hearing, beginning on February 16, 2016. District seeks a short continuance of the consolidated matters to March 8, 2016. District's request is not unreasonable. Accordingly, the request is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2015110276 Student's Case are vacated. The prehearing conference and due process hearing dates in District's case are also vacated. The mediation in District's Case shall remain as scheduled in the original scheduling order unless changed by the parties.
3. District's unopposed motion to continue the due process hearing in the consolidated matters is granted. The prehearing conference and due process hearing dates in District's case are vacated and continued.
4. The prehearing conference in the consolidated matter is continued to February 26, 2016 at 1:00 p.m. The due process hearing is continued to March 8, 9, and 10, 2016, and continuing day to day Monday through Thursday as determined by the hearing ALJ. The first day of hearing shall begin at 9:30 a.m., and all other days at 9:00 a.m. unless otherwise ordered.

5. 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 2016020042 [District's case].

IT IS SO ORDERED.

DATE: February 1, 2016

DocuSigned by:
Adrienne L. Krikorian
3475616B5EDF4C6...

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings