BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

BONITA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2023040205

OAH CASE NUMBER 2023040004

ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

APRIL 11, 2023

On March 29, 2023, Bonita Unified School District filed with the Office of Administrative Hearings, called OAH, a request for due process hearing in OAH case number 2023040004NUMBER, Bonita Unified's case, naming Parents on behalf of Student.

On April 4, 2023, Parents on behalf of Student filed with OAH a request for due process hearing in OAH case number 2023040205, naming Bonita Unified.

On April 11, 2023, the parties filed a joint motion to consolidate the two cases, and to continue the consolidated due process hearing to June 6, 2023.

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, both cases involve a common question of law or fact, specifically, whether Bonita Unified's October 11, 2022 psychoeducational evaluation and speech and language evaluation were appropriately conducted, and whether Student is entitled to independent educational evaluations. In addition, consolidation furthers the interests of judicial economy because the same witnesses and evidence will be presented in both cases. Consolidation will also avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately and avoid the possibility of conflicting results. 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).) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3).)

Here, the parties failed to demonstrate good cause for a continuance. No reason for the continuance request was given. Accordingly, the request to continue is denied.

ORDER

1. The parties' joint motion to consolidate OAH case numbers 2023040004 and 2023040205 is granted.
2. Student's case, OAH case number 2023040205, is designated as the primary case. All dates previously set in Bonita Unified's case, OAH case number 2023040004, are vacated.
3. The parties' joint motion to continue is denied. The consolidated matters shall proceed on the dates previously set for hearing in Student's case, OAH case number 2023040205.
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, OAH case number 2023040205.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings