BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CLARA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019080942 AND

OAH CASE NUMBER 2019120891

ORDER GRANTING MOTION TO CONSOLIDATE AND

DENYING MOTION TO CONTINUE

On August 23, 2019, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019080342, Student's First Case, naming Santa Clara Unified School District.

On December 23, 2019, Student filed a Request for Due Process Hearing in OAH case number 2019120891, Student's Second Case, naming Santa Clara.

On January 16, 2020, Santa Clara filed a Motion to Consolidate First Case with Second Case and to continue the due process hearing date set in both cases and asked for a due process hearing after March 2, 2020.

On January 21, 2020, Student filed an objection to consolidation on the ground that the issues raised in the two complaints are separate and distinct, therefore judicial economy would not be served by consolidating the two cases. Student does not oppose the continuance and states that counsel is unavailable for the month of March 2020 due to having hearings scheduled each week that month.

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, the cases involve subsequent time periods. However, they involve the same parties and likely several of the same witnesses. Adjudicating these cases separately would not serve judicial economy. Therefore, the motion to consolidate 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).)

Santa Clara's motion to continue the hearing does not demonstrate good cause based District being on mid-winter break or the unavailability of District's witness on the dates currently set. This is a student filed case and therefore Student's case will proceed first and there is no information that the District's witness will be necessary on the first two days of hearing.

ORDER

1. Santa Clara's Motion to Consolidate is granted.
2. The First case is designated as the primary case. However, all dates previously set in First case, OAH 2019080942 are vacated. The consolidated case will proceed on the dates currently set in the Second case: Prehearing Conference on February 10, 2020 at 1:00PM and Due Process Hearing February 19, through February 20, 2020 beginning at 9:30 AM on the first day, and 9:00 AM on all other days, continuing day to day as needed at the discretion of the Administrative Law Judge
3. Santa Clara's Motion to Continue is denied. All scheduling matters will be addressed by the hearing judge.

IT IS SO ORDERED.

DocuSigned by:
Marlo Nisperos
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DATED: January 24, 2020

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings