

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013120333
v.	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013120709
v.	ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE
PARENT ON BEHALF OF STUDENT.	

On December 9, 2013, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 2013120333 (Student's Case), naming Los Angeles Unified School District (District).

On December 19, 2013, District filed a Request for Due Process Hearing in OAH case number 2013120709 (District's Case), naming Student.

On December 31, 2013, the parties filed a joint Motion to Consolidate Student's Case with District's Case, and to vacate all due process hearing dates set in both cases, which is treated as a Motion to Continue. As discussed below, consolidation is granted but the Motion to Continue is denied, without prejudice.

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 cases involve common questions of law or fact. Specifically, District' Case seeks to establish that its psychoeducational assessment was appropriate and that Student is not entitled to an independent educational evaluation (IEE) at public expense. Student's Case alleges denials of a free appropriate public education (FAPE) arising out of District's eligibility determination, composition of individualized educational program team meetings, predetermination, offers of placement and services, and implementation. Student seeks, as one of the remedies for these alleged denials of FAPE, an independent psychoeducational assessment, among other IEE's. Thus, consolidation furthers the interests of judicial economy because the same facts and issues must be addressed in both matters. 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).)

The parties' motion to continue the hearing is denied without prejudice. The joint motion does not set forth agreed-upon proposed new dates for the hearing, but seeks to take both matters off-calendar indefinitely. The joint motion then proposes that the parties will meet and confer at a future date to advise OAH of their proposed new dates. Such a request to take the matter off-calendar to an indefinite future date cannot be granted. However the parties are free to submit a new motion to continue, after having agreed upon their proposed new dates, that OAH will treat as a motion for a first continuance.

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013120709 (District's Case) are vacated.
3. 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 2013120333 (Student's Case).
4. The Motion to Continue is denied without prejudice. All dates previously set in OAH Case Number 2013120333 (Student's Case) shall remain as scheduled.

Dated: January 03, 2014

/s/

JUNE R. LEHRMAN

Administrative Law Judge

Office of Administrative Hearings