

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
STUDENT,	OAH Case No. 2015030117
v.	
SANTA CLARA UNIFIED SCHOOL DISTRICT,	
SANTA CLARA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2014120222
v.	
STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On December 4, 2014, the Santa Clara Unified School District filed a Request for Due Process Hearing (complaint) against Student. The Office of Administrative Hearings designated Santa Clara's complaint as Case Number 2014120222 (Santa Clara's Case).

On February 25, 2015, Student, through her Parents,¹ filed a Request for Due Process Hearing against Santa Clara. OAH designated Student's complaint as Case Number 2015030117 (Student's Case).

On March 2, 2015, Student requested that the two cases be consolidated, and Santa Clara filed its notice of non-opposition to the request on the same date. On March 5, 2015, both parties requested that the consolidated matters be continued, and that the prehearing conference and the due process hearing dates be scheduled in accordance with the dates requested by the parties. As discussed below, Student's request to consolidate the cases, and the parties' joint request to continue the dates are granted.

¹ Student is nineteen years old, but she has assigned her educational right to her Parents.

APPLICABLE LAW AND DISCUSSION

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].)

Santa Clara's Case raises one issue relating to whether its offer of program and services, as contained in the August 14, 2014 individualized education program and the November 14, 2014 prior written notice, provide Student with a free appropriate public education (FAPE) in the least restrictive environment. In the Student's case, Student also alleges one issue, and contends that, for various identified reasons, Santa Clara's IEP offer, for the 2014-2015 school year, is not FAPE for Student.

Taken together, the issues presented in the two cases are similar, as both relate to Santa Clara's obligation to provide Student with a FAPE during the 2014-2015 school year. Both cases raise the question of whether Santa Clara, during the relevant period, met its procedural and substantive obligations to provide Student with a FAPE through the IEP process. Therefore, consolidating the two cases will promote judicial economy, as the cases present common questions of law and facts. The cases involve the same parties and cover the same or similar timelines and issues. Evaluating and resolving the issues would involve similar or same evidence and witnesses, and the analysis of the same facts and evidence. Therefore, consolidation would further the interests of judicial economy, and 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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties' request to schedule the prehearing conference on April 17, 2015, and the due process hearing on April 23, 28-30, and May 5-6, 2015 is deemed by OAH a request for

continuance by the parties. OAH has evaluated the parties' request to continue the dates for good cause, and good cause is established. Accordingly, the dates are continued.

ORDER

1. Student's request to consolidate the two cases is granted.
2. All dates previously set in OAH Case Number 2014120222 are vacated, and the consolidated matters shall proceed based on the timeline established in OAH Case Number 2015030117 (Student's Case).
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 2015030117.
4. The request to continue the prehearing conference and the due process hearing dates in the consolidated matters is granted. The prehearing conference and the due process hearing dates in OAH Case Number 2015030117 are reset as follows:

Prehearing Conference: **April 17, 2015, at 10:00 AM**

Due Process Hearing: **April 23, 28-30, and May 5-6, 2015, at 9:30 AM,** and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:00 a.m. and end at 5:00 p.m. each day, with the exception of April 23, 28 and May 5, 2015, when the hearing shall begin at 9:30 a.m., unless otherwise ordered.

DATE: March 06, 2015

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings