

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017010498
v.	
WESTMINSTER SCHOOL DISTRICT,	
WESTMINSTER SCHOOL DISTRICT,	OAH Case No. 2016081192
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING JOINT MOTION TO CONSOLIDATE CASES AND CONTINUE DUE PROCESS HEARING ¹

On August 29, 2016, Westminster School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016081192 (District's Case), naming Student.

On January 11, 2017, Student filed a Due Process Complaint in OAH case number 2017010498 (Student's Case), naming District.

The original hearing date for District's Case was September 22, 2016. District's case has been continued twice. The current hearing dates in District's Case are March 14, 15 and 16, 2017.

The hearing in Student's Case is scheduled to begin on March 7, 2017. No previous continuances have been requested in Student's Case.

On February 22, 2017, District and Student filed a joint motion to consolidate District's Case with Student's Case and to continue the due process hearing dates for the consolidated cases. Such motion asserts the two cases should be consolidated because they both involve common questions of law and fact and will require the testimony of many of the same witnesses. The motion also asserts the hearing date for the consolidated cases should be continued because Student's attorney is not available on the current hearing dates for both

¹ The Order issued February 24, 2017 contained an incorrect starting time for the first day of the due process hearing, which according to OAH scheduling practices must begin at 1:30 p.m. No other change is made in this Amended Order.

Student's case and District's Case. The motion requests the hearing dates for the consolidated cases be continued to May 30, 2017, through June 1, 2017.

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, Student's Case and District's Case involve a common question of law and fact and the same parties. Specifically, both cases allege the identical issue of whether Student's August 1, 2016 individualized education program either denied, or appropriately offered, Student placement and services which constituted a free appropriate public education. In addition, consolidation in this matter furthers the interests of judicial economy because many of the same witnesses will be called to testify in both Student's Case and District's Case. 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' joint motion to continue the hearing on the consolidated case demonstrates good cause for a continuance based on the unavailability of Student's attorney on the current hearing dates set in both cases. However, given the age of District's case and the two prior continuances on that matter, no further continuances are contemplated.

ORDER

1. The parties' joint motion to consolidate is granted.
2. All dates previously set in Student's Case (OAH case number 20170498) and District's case (OAH Case Number 2016081192) are vacated.
3. The parties' joint continuance request is granted.
4. The dates for this consolidated matter shall be as follows:

Mediation: April 18, 2017, at 9:30 a.m. at WOCCSE,
5832 Bolsa Avenue, Huntington Beach, CA 92649

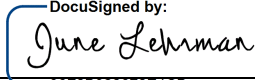
Prehearing Conference: May 22, 2017, at 1:00 p.m. (telephonic)

Due Process Hearing: May 30, 2017, at **1:30 p.m.**², May 31, 2017 & June 1, 2017, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge, at WOCCSE, 5832 Bolsa Avenue, Huntington Beach, CA 92649.

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 Student's Case, OAH case number 2017010498.

IT IS SO ORDERED.

DATE: February 24, 2017

DocuSigned by:

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JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings

² The Order issued February 24, 2017 contained an incorrect starting time for the first day of the due process hearing, which according to OAH scheduling practices must begin at 1:30 p.m. No other change is made in this Amended Order.