

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENT ON BEHALF OF STUDENT,

and

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100153

OAH CASE NUMBER 2021090782

ORDER GRANTING MOTION TO CONSOLIDATE,
DESIGNATING STUDENT'S CASE AS PRIMARY,
SCHEDULING VIDEOCONFERENCE MEDIATION, AND
GRANTING MOTION TO CONTINUE

NOVEMBER 17, 2021

On September 24, 2021, Irvine Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021090782, naming Student. Irvine's Case is scheduled for hearing beginning December 7, 2021.

On October 5, 2021, Student filed a Request for Due Process Hearing in OAH case number 2021200153, naming Irvine. Student's Case is scheduled for hearing beginning November 30, 2021.

On November 16, 2021, the parties filed a joint Motion to Consolidate both cases, to schedule a second videoconference mediation, and to continue the due process hearing dates to February 1, through 3, 2022.

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 common questions of law or fact, specifically, the appropriateness of Irvine's Spring 2021 assessments of Student and its June 2, 2021 individualized education program as amended August 24, 2021. Therefore, consolidation is warranted. Consolidation furthers the interests of judicial economy because both cases involve the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve the introduction of many of the same documents. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timeline shall be controlled by Student's Case, OAH case number 2021100153.

REQUEST FOR VIDEOCONFERENCE MEDIATION AND 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).) OAH encourages the informal resolution of disputes through mediation.

Here, the parties participated in one mediation specific to Irvine's Case. The parties have continued settlement negotiations and agreed to have Parent tour several school placements in the next few weeks. A second mediation following these tours will afford the parties an opportunity to explore settlement of all issues.

The parties have established good cause to schedule a second mediation and to continue the hearing dates set for Student's Case. The parties' request to continue the hearing to February 2022 is granted. However, given the length of the continuance, the parties are advised that OAH will not be inclined to grant any further continuances.

ORDER

1. The Motion to Consolidate is granted.
2. Student's Case is designated as the primary case.
3. All dates previously set in Irvine's Case are vacated.
4. The Motion to Continue the dates set n Student's Case and to schedule mediation is granted. Mediation in these consolidated matters shall be held by videoconference on December 9, 2021, at 9:00 AM. The Prehearing Conference in the consolidated cases shall be held on January

24, 2022, at 1:00 PM, and the Due Process Hearing shall be held on February 1, 2, and 3, 2022, beginning at 9:30 AM each day, continuing day to day as needed at the discretion of the Administrative Law Judge.

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 Primary Case, OAH case number 2021100153.

IT IS SO ORDERED.

Theresa Ravandi

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings