

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

CARPINTERIA UNIFIED SCHOOL DISTRICT,

and

PARENTS ON BEHALF OF STUDENT,

OAH CASE NUMBER 2021120904

OAH CASE NUMBER 2022010410

ORDER GRANTING MOTION TO CONSOLIDATE,
ADVANCING HEARING DATE OF STUDENT'S ISSUE, AND
ORDERING AMENDED PREHEARING CONFERENCE
STATEMENTS

JANUARY 20, 2022

On December 28, 2021, Carpinteria Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021120904, Carpinteria's Case, naming Student.

On January 14, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022010410, Student's Case, naming Carpinteria.

On January 14, 2022, Student filed a Motion to Consolidate the cases.

On January 20, 2022, Carpinteria filed an objection to consolidation on the ground that OAH has incorrectly identified Student's issue as the type of claim for which an expedited due process hearing is available, asserting it is merely a claim for denial of a free appropriate public education and unrelated to a manifestation determination review or interim alternative educational setting based upon violation of a school's code of conduct.

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 a common question of law or fact, specifically, whether Carpinteria may place Student in an interim alternative educational setting for 45 days based upon the fact that despite Student's conduct having been found to be a manifestation of his disability, his conduct inflicted serious bodily injury upon another person at school. Student's issue, the question of whether Student's conduct was a manifestation of his disability on the grounds of title 20 United States Code section 1415(k)(1)(E)(i)(II), Carpinteria's failure to implement Student's individualized education program, is directly connected to the legal question raised in Carpinteria's Case of whether Student requires placement in an interim alternative educational setting or

whether Student might safely be maintained in the placement in which his aggressive behavior occurred. Accordingly, consolidation is granted.

A due process hearing of expedited claims must be conducted within 20 school days of the date the expedited due process hearing request was filed, and a decision must be rendered within 10 school days after the hearing ends. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2).) Although Student's Case was originally scheduled to be heard beginning on February 15, 2022, it may begin any time within 20 school days of the date it was filed, while Carpinteria's Case cannot begin on the dates in Student's Case as that hearing would start beyond the 20 school days since Carpinteria's Case was filed. Because Carpinteria's Case and Student's Case are being consolidated, the consolidated matter will be heard beginning on the date set in Carpinteria's Case, February 1, 2022. An expedited mediation in Student's Case is currently scheduled to take place on January 27, 2022, and will remain on calendar. If the parties are not available on that date, they may request another mutually agreeable date before the consolidated expedited due process hearing begins.

The parties have already filed their prehearing conference statements for the January 24, 2022 prehearing conference related to Carpinteria's issues. Because Student's issue is now included in the consolidated matter, the parties shall file amended prehearing conference statements by 3:00 PM on Friday, January 21, 2022.

ORDER

1. Student's Motion to Consolidate is granted.
2. Carpinteria's Case is designated as the primary case. All dates previously

set in Student's Case, OAH case number 2022010410, are vacated except the mediation of January 27, 2022, which remains on calendar.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings