

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:
PARENTS ON BEHALF OF STUDENT

AND

PLEASANTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080878

OAH CASE NUMBER 2021080879

ORDER DENYING MOTION TO CONSOLIDATE AND
DENYING MOTION TO CONTINUE

FEBRUARY 02, 2022

On August 27, 2022, Parents on behalf of Student A filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021080878, Student A's Case, naming Pleasanton Unified School District. On August 27, 2022, Parents on behalf of Student B filed a Request for Due Process Hearing in OAH case number 2021080879, Student B's Case, naming Pleasanton Unified School District

On February 1, 2022, the parties filed a joint Motion to Consolidate the cases and to continue the due process hearing date of both cases to March 8 through 10, 2022. The motion is supported by the Declaration of Kristin N. Springer, attorney for both Student A and Student B.

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].)

In seeking consolidation, the parties emphasize that Student A and Student B are identical twins, that the third amended complaints in each case are identical, that most of the hearing evidence will be identical, and that audio recordings and transcripts are identical. However, Student A's Case and Student B's Case involve different petitioners and, therefore, the cases lack the fundamental attribute of consolidation. Namely, the cases do not involve the same parties.

The Individuals with Disabilities Education Act emphasizes the individual nature of special education eligibility and related services. The IDEA's cornerstone annual

meeting is entitled “individualized education program” because each child, despite being an identical twin, is entitled to a special education program that addresses that child’s unique needs.

Similarly, a special education child’s due process procedural protections are designed to address the child’s individual needs and entitlements. The anticipated convenience of consolidation cannot compromise these protections. The joint motion for consolidation is denied.

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).)

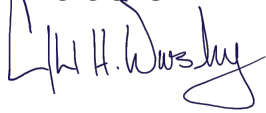
Here, the parties’ request a continuance of the matters to address the consolidated status of the cases to prepare for hearing. Since the motion for consolidation is denied, the parties’ basis for continuance does not apply. The request for continuance is therefore denied.

ORDER

1. The parties’ joint Motion to Consolidate is denied.
2. The parties’ joint Motion to Continue is denied.

3. Both cases shall proceed to prehearing conference and hearing as presently scheduled.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial "C" and a long, sweeping underline.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings