

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:
PARENTS ON BEHALF OF STUDENT,

and

SAN MATEO FOSTER CITY SCHOOL DISTRICT,
OAH CASE NUMBER 2024030784
OAH CASE NUMBER 2024020402

ORDER GRANTING JOINT MOTION TO CONSOLIDATE
CASES; ORDER GRANTING JOINT MOTION TO SCHEDULE
MEDIATION AND CONTINUE DUE PROCESS HEARING

APRIL 8, 2024

On February 9, 2023, San Mateo Foster City School District, called San Mateo, filed with the Office of Administrative Hearings, called OAH, a request for due process hearing in OAH case number 2024020402, naming Parents on behalf of Student. On March 28, 2024, OAH issued an order following prehearing conference granting San Mateo's motion to amend complaint. The prehearing conference, called PHC, in San Mateo's case is scheduled for April 15, 2024, and the due process hearing is scheduled for April 23 through 25, 2024.

On March 21, 2024, Student filed a request for due process hearing in OAH case number 2024030784, naming San Mateo. The PHC is scheduled for April 29, 2024, and the due process hearing is scheduled for May 7 through 9, 2024.

On April 4, 2024, the parties filed a joint stipulation to consolidate San Mateo's and Student's cases, schedule a mediation, and continue the PHC and due process hearing dates in San Mateo's and Student's cases. OAH will treat the parties' joint stipulation as a motion to consolidate cases, schedule a mediation, and continue the PHC and due process hearing dates set in San Mateo's and Student's cases.

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, the appropriateness of Student's individualized education programs, called IEPs, during the 2022-2023 and 2023-2024 school years. Student alleges San Mateo failed to appropriately evaluate Student in all areas of suspected disability and offer Student an appropriate educational program, including services and supports to address Student's behavioral needs. San Mateo contends an October 19, 2023, IEP offered Student a free appropriate public education in the least restrictive environment and requests an order permitting it to implement the October 19, 2023 IEP's offer of placement and services

without parental consent. Given these common questions of law or fact, consolidation is warranted. Further, 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 2024030784.

MEDIATION REQUEST 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).)

The parties request the due process hearing in this consolidated matter be continued to May 14 through 16, 2024, to allow the parties an opportunity to participate in mediation. The parties have not attended mediation because Student retained legal counsel on February 28, 2024. The parties' joint request for a mediation constitutes good cause to continue the PHC and due process hearing. Accordingly, the parties' joint request for continuance is granted. All previously scheduled dates are vacated.

ORDER

1. Student's and San Mateo's joint motion to consolidate is granted.

2. Student's case is designated as the primary case. All dates previously set in San Mateo's case, OAH case number 2024020402, are vacated.
3. The parties' joint motion to continue is granted. Mediation in the above-captioned case shall be held on April 30, 2024, from 9:00 AM to 4:30 PM. The PHC in the consolidated cases shall be held on May 3, 2024, at 1:00 PM, and the due process hearing in the consolidated cases shall be held on May 14 through 16, 2024, beginning at 9:30 AM on all days, and continuing day to day as needed at the discretion of the Administrative Law Judge.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the complaint's filing date in Student's case, OAH case number 2024030784.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings