

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

GRANITE MOUNTAIN CHARTER SCHOOL,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2024040360

OAH CASE NUMBER 2024070258

ORDER GRANTING MOTION TO CONSOLIDATE AND
GRANTING MOTION TO CONTINUE

JULY 17, 2024

On April 9, 2024, Granite Mountain Charter School filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2024040360, Charter's Case, naming Student. Charter's Case stated two issues. Issue 1 sought to defend the appropriateness of Charter's assessments such that it was not required to fund an independent educational evaluation. Issue 2 sought to defend Charter's determination in an individualized education program, or IEP, team meeting dated April 5, 2024, wherein Charter determined that Student was not eligible for special education and related services. On April 16, 2024, Charter's Case was continued to

permit the parties to mediate. On April 24, 2024, Charter was permitted to amend its complaint. The amended complaint added additional facts and restated the two issues. Issue 1 was clarified with respect to the particular assessments that were at issue, specifically its vision and psychoeducational assessments. Issue 2 was amended to state as follows: "Was Parent Denied Meaningful Participation at the IEP Meeting of April 5, 2024 in Hearing and Fully Discussing the Charter's Assessments and Conclusion on Eligibility?"

On May 17, 2024, Charter's Case was continued to the currently-scheduled hearing dates of August 13 through August 15, 2024 in order to facilitate Student's seeking legal representation and rescheduling the previously-scheduled mediation.

On July 8, 2024, Student filed a Request for Due Process Hearing in OAH case number 2024070258, Student's Case, naming Charter. Student's Case was set for hearing dates on August 27, 2024 through August 29, 2024. Student's Case alleged that Parent was denied parental participation and alleged that Charter's vision assessment and psychoeducational assessments were not appropriate, and that Charter had failed to assess in central auditory processing disorder, such that Student was entitled to independent educational evaluations. Student also alleged that Charter had predetermined its conclusion that Student was not eligible for special education and related services.

On July 11, 2024, Student filed a Motion to Consolidate the cases, asking them to be heard on the dates set in Student's Case.

On July 11, 2024, Charter filed an objection to consolidation on the purported grounds that Student's Motion to Consolidate was not specific enough concerning the areas of overlap between Charter's and Student's Cases. The objection is frivolous. The

overlap is self-evidently obvious in that both cases pertain to Charter's vision and psychoeducational assessments, as well as parental participation. California Code of Regulations, title 1, section 1040, subdivision (a)(2) defines "frivolous" as "totally and completely without merit."

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 Charter's assessments and parental participation in IEP team determinations. Consolidation furthers the interests of judicial economy because the issues overlap and the evidence and witnesses will be the same. Accordingly, consolidation is granted.

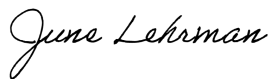
Student's request to have the cases heard on the dates set for Student's Case is treated as a motion to continue the previously-set dates in Charter's Case, and is granted for good cause.

ORDER

1. Student's Motion to Consolidate is granted.
2. Charter's Case is designated as the primary case.

3. The Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on August 19, 2024 at 1:00 PM, and the Due Process Hearing in the consolidated cases shall be held on August 27, 2024 through August 29, 2024, beginning at 9:30 AM on all days, 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 date of the filing of the complaint in Primary Case, Charter's Case, OAH case number 2024040360.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "June Lehrman".

June Lehrman

Administrative Law Judge

Office of Administrative Hearings