

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

SAN MARCOS UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024030894

OAH CASE NUMBER 2024070498

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE GRANTING MOTION TO
CONSOLIDATE AND CONTINUANCE

JULY 29, 2024

On July 29, 2024, Administrative Law Judge Rita Defilippis, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Leonard McDaniel appeared on behalf of Student. Attorney Madisyn Aleshire appeared on behalf of San Marcos Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO CONSOLIDATE

On March 26, 2024, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2024030894, Student's Case, naming San Marcos Unified School District. On July 8, 2024, OAH granted Student's motion to amend the due process complaint and issued a scheduling order setting the prehearing conference on August 19, 2024, at 1:00 PM, and the due process hearing on August 27, 28, and 29, 2024.

On July 16, 2024, San Marcos filed a Request for a Due Process Hearing in OAH case number 2024070498, San Marcos's Case, naming Student, San Marcos's case. On July 17, 2024, San Marcos filed a Motion to Consolidate the cases. Student did not file a response to the motion.

The motion to consolidate was discussed at the prehearing conference. Student did not oppose the motion.

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 San Marcos's May 24, 2024, psychoeducational evaluation, including San Marcos's health assessment. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because both cases involve common witnesses and documentary evidence. Consolidation would also eliminate the risk of inconsistent findings of fact and law. Accordingly, consolidation is granted. Student's Case is designated the primary case.

REQUEST FOR CONTINUANCE

San Marcos requested a continuance of the consolidated matter based on San Marcos's counsel's unavailability on the currently scheduled dates for hearing in Student's Case. San Marcos's counsel is unavailable due to her representation in a due process hearing in a previously filed matter, currently set for hearing on the same dates as Student's Case.

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).)

San Marcos established good cause for the requested continuance as prior filed cases with OAH proceed to hearing before later filed cases. Accordingly, the request for continuance is granted.

ORDER

1. San Marcos's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in San Marcos's case, OAH case number 2024070498, are vacated.
3. San Marcos's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on August 26, 2024, at 1:00 PM, and the Due Process Hearing in the consolidated cases shall be held on September 4 and 5, 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 Student's Case, OAH case number 2024030894.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings