

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

and

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024090617

OAH CASE NUMBER 2024080049

ORDER GRANTING MOTION TO CONSOLIDATE AND
CONTINUING DUE PROCESS HEARING

OCTOBER 7, 2024

On July 30, 2024, San Dieguito Union High School District, called San Dieguito, filed with the Office of Administrative Hearings, called OAH, a request for due process hearing in OAH case number 2024080049, San Dieguito's Case, naming Parents on behalf of Student. On August 6, 2024, OAH issued an order granting the parties' joint request to schedule a videoconference mediation and continue the due process hearing. The mediation in San Dieguito's Case is scheduled for October 21, 2024, the prehearing conference, called PHC, is scheduled for November 8, 2024, and the due process hearing is scheduled for November 19 through 21, 2024.

On September 13, 2024, Parents on behalf of Student filed a request for due process hearing in OAH case number 2024090617, Student's Case, naming San Dieguito. The PHC is scheduled for October 21, 2024, and the due process hearing is scheduled for October 29 through 31, 2024.

On October 1, 2024, Student filed a motion to consolidate San Dieguito's and Student's Cases and to proceed on the dates set in San Dieguito's Case. On October 3, 2024, San Dieguito filed a statement of non-opposition to the motion to consolidate and requested OAH keep the October 21, 2024, mediation scheduled in San Dieguito's Case on calendar.

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 program during the 2023-2024 school year. Student alleges San Dieguito failed to offer appropriate goals, services, and placement in an October 19, 2023 IEP, as continued to December 7, 2023, and February 16, 2024. Student further alleges the October 19, 2023, IEP was based on San Dieguito's October 17, 2023 multidisciplinary assessment of Student. San Dieguito contends the

October 17, 2023 multidisciplinary assessment of Student was appropriate such that Student is not entitled to independent educational evaluations at public expense.

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 2024090617.

CONTINUANCE OF DUE PROCESS HEARING

Student requested the due process hearing in Student's Case be continued to the dates scheduled in San Dieguito's Case. OAH will treat Student's request as a motion to continue the PHC and due process hearing dates set in 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).)

Student's request to continue the due process hearing in this consolidated matter will allow the parties an opportunity to participate in mediation previously scheduled for October 21, 2024. The parties' desire to participate in mediation as previously ordered

in San Dieguito's Case constitutes good cause to continue the PHC and due process hearing. Accordingly, Student's request for a continuance is granted.

ORDER

1. Student's motion to consolidate is granted.
2. Student's Case is designated as the primary case.
3. Student's motion to continue is granted. All previously scheduled dates in Student's Case are vacated.
4. The consolidated matter shall proceed on the dates set in San Dieguito's Case. Mediation shall be held on October 21, 2024, from 9:00 AM to 4:30 PM. The PHC in the consolidated cases shall be held on November 8, 2024, at 1:00 PM, and the due process hearing shall be held on November 19 through 21, 2024, beginning at 9:30 AM on all days, and continuing day to day as needed at the discretion of the Administrative Law Judge.
5. 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 2024090617.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings