BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2021010304

and

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020050609

ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE AS MOOT

JANUARY 14, 2021

On May 20, 2020, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2020050603, Student's First Case, naming Glendale Unified School District. Student filed an amended complaint in Student's First Case on October 12, 2020.

On January 11, 2021, Student filed a Request for Due Process Hearing in OAH case number 2021010304, Student's Second Case, naming Glendale Unified School District.

On January 11, 2021, Student filed a Motion to Consolidate Student's First Case with Student's Second Case. Student filed a Motion to Continue on January 11, 2021, to continue the due process hearing date set in Student's First Case, OAH case number 2020050609 based on counsel being unavailable due to illness.

On January 13, 2021, Glendale filed an objection to consolidation on the ground that Glendale has a right to a timely resolution of Student's First Case. Glendale filed an objection to Student's Motion to Continue on January 13, 2021.

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, Student's First and Second Cases involve a common question of law or fact, specifically, Student's individualized education program, called IEP, in effect during the 2019-2020 and 2020-2021 school years. In addition, consolidation furthers the interests of judicial economy because the same witnesses and evidence would be presented in each hearing. Accordingly, consolidation is granted.

CONTINUANCE USE IF CONTINUANCE REQUESTED

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 Motion to Continue the due process hearing is moot as granting consolidation results in vacating the currently scheduled hearing dates. Student's Second Case is designated as primary. Student's First Case has been pending for more than seven months. An additional delay in the consolidated matter is strongly disfavored. Accordingly, the consolidated matter shall proceed on the dates currently set in Student's Second Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Second Case is designated as the primary case. All dates previously set in Student's First Case, OAH case number 2020050609, are vacated.

3. Student's Motion to Continue is denied as moot. The consolidated matters shall proceed on the dates previously set for hearing in the Primary Case, OAH case number 2021010304.
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, OAH case number 2021010304.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings