BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LARKSPUR-CORTE MADERA SCHOOL DISTRICT,	OAH Case No. 2019020163
LARKSPUR-CORTE MADERA SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019020610 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On February 5, 2019, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019020163 (Student's Case), naming Larkspur-Corte Madera School District.

On February 15, 2019, Corte Madera filed a Request for Due Process Hearing in OAH case number 2019020610 (District's Case), naming Student.

On February 15, 2019, Larkspur-Corte Madera filed a Motion to Consolidate Student's Case with District's Case and to continue the due process hearing date set in Case Number 2019020163 (Student's Case).

On February 20, 2019, Student filed an opposition to consolidation of the cases, and continuance of Student's case, on the grounds that Larkspur-Corte Madera failed to establish good cause for the requests.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; 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 Case and District's Case involve a common question of law or fact, specifically, Student alleges in her complaint that Larkspur-Corte Madera's initial assessment of Student was inappropriate and asserts that Student should have been found eligible for special education services. Larkspur- Corte Madera's sole issue in its complaint asserts that the initial assessment of Student was appropriate. Consolidation of Student's case and Larkspur-Corte Madera's case involve the same parties and common issues, which would involve the same witnesses and evidence. Consolidation therefore furthers the interests of judicial economy and prevents inconsistent rulings. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Larkspur-Corte Madera's motion to continue the hearing demonstrates good cause for a continuance, based on Larkspur-Corte Madera's Counsel's unavailability due to another due process hearing, filed previously to the present matter, which is expected to overlap with the dates for hearing scheduled in Student's case.

ORDER

1. Larkspur-Corte Madera's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2019020610, District's Case, are vacated.
3. Larkspur-Corte Madera's Motion to Continue is granted. The parties shall participate in a prehearing conference in the consolidated cases on April 15, 2019, at 3:00 p.m. OAH will initiate the call. The Due Process Hearing in the consolidated cases shall be held on April 23[1], 24, and 25, 2019, continuing day to day as needed at the discretion of the Administrative Law Judge. The first day of hearing shall begin at 9:30 a.m. and the following days at 9:00 a.m., unless otherwise ordered.

[1] Larkspur-Corte Madera requested the first day of hearing to be Monday, April 22, 2019. April 22, 2019 is not an available date for hearing.

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 OAH Case Number 2019020163, Student's Case.

IT IS SO ORDERED.

DATE: February 21, 2019

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Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings