BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2023020014

OAH CASE NUMBER 2023030211

ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

MARCH 10, 2023

On January 31, 2023, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2023020014, Student's Case, naming Temecula Unified School District. That matter is set for a prehearing conference on March 13, 2023 and the due process hearing on March 21-23, 2023.

On March 8, 2023, Temecula filed a Request for Due Process Hearing in OAH case number 2023030211, Temecula's Case, naming Student. That matter is set for a prehearing conference on March 27, 2023 and the due process hearing on April 4-6, 2023.

On March 8, 2023, Temecula filed a Motion to Consolidate the cases to continue the due process hearing date set in both case to an undetermined date in the future.

On March 8, 2023, Student filed an objection to Temecula's requests on the ground that a continuance would cause unreasonable delay in the resolution of Student's request for services.

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, Student's case challenges Temecula's determination that Student was not eligible for special education and related services, alleges predetermination, and challenges the denial of mental health and other services. Temecula's Case seeks to establish the appropriateness of its assessment upon which its eligibility determination was based. The cases share witnesses and parties. In addition, consolidation furthers the interests of judicial economy because the documentary evidence will overlap. Accordingly, consolidation is granted.

CONTINUANCE

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).)

Temecula's motion to continue the hearing fails to demonstrate good cause for a continuance. Temecula assumes that a consolidation will require a new resolution period and re-setting of hearing dates. However that is not the case where, as here, Student's case is designated as the primary matter for the consolidated cases. Temecula states no other reasons why the consolidated cases cannot be heard as currently scheduled in the primary matter. Student's opposition to Temecula's request rests solely on Student opposition to any delay in the hearing. However, consolidating the matters into the timeline currently set for Student's case resolves that concern.

ORDER

1. Temecula's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Temecula's Case, 2023030211, are vacated.
3. Temecula's Motion to Continue is denied. The consolidated matters shall proceed on the dates previously set for hearing in the Student's Case, OAH case number 2023020014: Prehearing conference on March 13, 2023 and due process hearing on March 21-23, 2023.

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, Student's Case, OAH case number 2023020014.

IT IS SO ORDERED.

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings