BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SOUTH PASADENA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012110590
SOUTH PASADENA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013040569 ORDER DENYING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

On November 16, 2012, Student filed a Request for Due Process Hearing in OAH case number 2012110590 (First Case), naming District.

On April 12, 2013 District filed a Request for Due Process Hearing in OAH case number 2013040569 (Second Case), naming Student.

On April 15, 2013, District filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in the First Case.

On April 17, 2013, at the Pre-Hearing Conference, Student objected to both motions.

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].)

There are no common questions of law or fact to support a consolidation. The First Case file by Student, has a single issue, whether District denied Student a FAPE by failing to fund a psychoeducational IEE within a reasonable time after parents' request. This is based upon a 2011 assessment and a 2012 parent request. The Second Case by District, has a different issue, whether its 2012 FAPE offer was appropriate. Accordingly, consolidation is not warranted given the difference in facts and law between the two matters.

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).)

There is no good cause shown to continue this hearing. Student's case is five months old, and is scheduled to proceed with a two day hearing on April 24 and 25, 2013. Student objected to a continuance and is ready to start the hearing.

ORDER

1. District's Motion to Consolidate is denied.
2. District's Motion to Continue is denied.

Dated: April 23, 2013

/s/

DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings