BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. COLTON JOINT UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017060750
COLTON JOINT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017081086 ORDER GRANTING MOTION TO CONSOLIDATE AND ORDER GRANTING MOTION TO CONTINUE PREHEARING CONFERENCE

On July 18, 2017, Parent on behalf of Student filed with the Office of Administrative Hearings an Amended Request for Due Process Hearing in OAH case number 2017060750 (Student's Case), naming Colton Joint Unified School District. Student's Case is presently set for mediation on September 1, 2017, prehearing conference on September 29, 2017, and hearing on October 10, 11, and 12, 2017.

On August 24, 2017, District filed with OAH a Request for Due Process Hearing in OAH case number 2017081086 (District's Case), naming Student. District also filed a Motion to Consolidate Student's Case with District's Case, supported by the declaration of District's counsel. District requests that the mediation and hearing dates in Student's Case be assigned to the consolidated matters. District further seeks a continuance of the prehearing conference from September 29, 2017 to October 2, 2017, for the consolidated matters. The parties have submitted a stipulation, agreeing to the requests made in District's motion.

Consolidation and Continuance

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].)

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.)

Discussion

Here, Student's Case and District's Case involve a common question of law or fact. District's Case seeks a determination that District's April 17, 2017 annual individualized education program offered Student a free appropriate public education whereas Student's Case asserts, in addition to other issues, that District April 2017 IEP did not offer Student a FAPE. Also, consolidation furthers the interests of judicial economy because witnesses and documentary evidence would be addressing the same District assessments and IEP's in both cases. Accordingly, consolidation is granted.

The parties also seek a continuance of the presently scheduled PHC of September 29, 2017, because of the unavailability of District's attorney. The parties have agreed to October 2, 2017 for the continued PHC. Good cause exits and the request is granted.

ORDER

1. District's motion to consolidate is granted. OAH Case Number 2017060750 (Student's Case) shall be the lead case into which all further pleadings shall be filed.
2. All dates previously set in OAH Case Number 2017081086 (District's Case) are vacated.
3. The mediation date of September 1, 2017, and the hearing dates of October 10, 11, and 12, 2017, shall apply to these consolidated cases.
4. The September 29, 2017 prehearing conference is continued to 1:00 p.m., October 2, 2017.
5. 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 2017060750 (Student's Case).

IT IS SO ORDERED.

DATE: August 28, 2017

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings