BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SOUTH BAY UNION SCHOOL DISTRICT,	OAH CASE NO. 2012020625 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE
SOUTH BAY UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012021093 ORDER: FOLLOWING PREHEARING CONFERENCE; GRANTING MOTION TO CONSOLIDATE; AND GRANTING MOTION TO CONTINUE

On March 21, 2012, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Eileen M. Cohn, Office of Administrative Hearings (OAH). Robin J. Champlin, Attorney at Law, appeared on behalf of Student and Student's parent (Student). Sundee M. Johnson, Attorney at Law, appeared on behalf of South Bay Union School District (District). The PHC was recorded.

Based on discussion and stipulation of the parties, the ALJ issues an order continuing and consolidating the above-captioned matters based upon the following facts and applicable law:

Facts

On February 17, 2012, Student filed a Request for Due Process Hearing (Complaint) in OAH Case Number 2012020625 (First Case), naming District. Student's complaint contains 20 allegations, mainly arising from District's failure to offer Student a FAPE during the 2010-2011, and 2010-2011 school years. Among his allegations concerning the 2011-2012 school year, Student alleges that District failed to conduct an appropriate and unbiased mental health assessment.

On February 28, 2012, District filed a Complaint in OAH case number 2012021093 (Second Case), naming Student. The sole issue in District's complaint is whether it conducted an appropriate mental health assessment such that it is not required to conduct an independent educational evaluation at public expense.

Prior to the prehearing conference on March 21, 2012, neither party had requested a continuance in First Case or Second Case.

On March 21, 2012, the parties stipulated to: consolidating the First Case with the Second Case; continuing the due process hearing date in the First Case to the Second Case; and continuing the due process hearing date in the Second Case.

On March 21, 2012, at the PHC, the parties moved the ALJ to issue an order based upon their stipulation. At the PHC, the parties also stipulated to the continued mediation, prehearing conference and due process hearing dates.

Applicable Law

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, First Case and Second Case involve a common question of law or fact, specifically, the appropriateness of District's mental health assessment. In addition, consolidation furthers the interests of judicial economy because the same issue can be heard once and given the closeness in time between the filings of both cases, the consolidation will not cause undue delay. 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).)

There is good cause to grant the joint motion of the parties to continue the hearing in First Case and Second Case, because this is the parties' first request for a continuance in

either case, both cases are being consolidated, and the parties have stipulated to continued mediation, prehearing conference, and due process hearing dates.

ORDER

1. The stipulated Motion to Consolidate is granted. All pleadings and documents shall be prepared and filed with the above dual caption. Case Number 2012020625 [First Case] shall be the primary case and all documents and communications shall be filed by OAH under that case number.
2. The stipulated Motion to Continue is granted. All dates previously set in First Case and Second Case are vacated
3. The Mediation in the consolidated cases shall be held on April 4, 2012, 9:30 a.m.
4. The Prehearing Conference in the consolidated cases shall be held on April 23, 2012, 1:30 p.m.
5. The Due Process Hearing in the consolidated cases shall be held on April 30, 2012, 1:30 p.m., and on May 1, 2, and 3, 2012, 9:00 a.m.
6. 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 2012020625 [First Case].

Dated: March 22, 2012

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings