

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

*In the Consolidated Matters of:*

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012060342

v.

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT,

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GARDEN GROVE UNIFIED SCHOOL  
DISTRICT,

OAH CASE NO. 2012040530

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S  
MOTION TO CONSOLIDATE AND  
DENYING REQUEST TO CONTINUE

On April 12, 2012, the Garden Grove Unified School District (District) filed a Request for Due Process Hearing, in the Office of Administrative Hearings (OAH) case number 2012040530 (District's Case), naming Student.

On June 6, 2012, Student filed a Request for Due Process Hearing, in OAH case number 2012060342 (Student's Case), naming District.

On June 18, 2012, Student filed a Motion to Consolidate the Student's Case with the District Case (Motion), and requested that both the prehearing conference (PHC) and the due process hearing dates set in OAH Case Number 2012060342 (Student's Case) be continued (Request to Continue).

On June 18, 2012, District filed a notice of non-opposition to Student's Motion and request to continue. As discussed below, Student's Motion to Consolidate is granted. The request to continue is denied without prejudice.

APPLICABLE LAW

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

## DISCUSSION

### *Motion to Consolidate*

District's case raises only one issue of whether its multi-disciplinary psycho-educational assessment of Student conducted in 2012 was appropriate so that District does not have to pay for an independent educational evaluation (IEE) requested by Parent.

Student's complaint raises the issues of whether, during the 2010-2011 and the 2011-2012 school years (SYs), District denied Student a free appropriate public education (FAPE), when District denied Parent's request for an occupational therapy (OT) assessment for Student, and failed to provide prior written notice in Mother's primary language. Further, Student alleges that a denial of FAPE occurred when needed OT goals were not included in his IEP from May 2011 to the present time, and when a number of procedural violations were committed by District from January 2012 to the present time. Additional issues raised by Student were whether District denied him a FAPE when District failed to provide parent training from January 2012 to the present time, and failed to provide an IEE upon Parent's disagreement with District's 2012 multi-disciplinary psychoeducational assessment of Student.

Both parties agree that the two cases involve the same parties, and cover same or similar issues and timelines. The two cases present common questions of law and facts, as they relate to the information District considered, or should have considered before determining that Student's placement and eligibility for special education and related services under the Individuals with Disabilities Education Act as re-authorized and amended

by the Individuals with Disabilities Education Improvement Act. District is not opposed to consolidation.

Here, consolidation furthers the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs, whether District's assessment was appropriate, and whether the assessment's data supports District's determination and IEP offers of special education services and supports. Evaluating and addressing these questions would involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Therefore, consolidating the cases will promote judicial economy. Accordingly, consolidation is granted.

*Request to Continue*

Regarding Student's request to continue the PHC and the due process hearing dates in the Student's case (OAH Case Number 2012060342), Student has not established good cause to continue either of the dates. Further, Student's request to continue failed to explain why the currently scheduled July 25, 2012 date for the PHC or the July 31, 2012 date to begin the due process hearing in this matter is inappropriate. Thus, **Student's request to continue the PHC and the due process hearing dates in OAH Case Number 2012060342 (Student's case) is denied without prejudice.** Either party may provide additional information if either party believes that good cause exists to continue the PHC and/or the due process hearing dates in OAH Case Number 2012060342.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's request to continue is denied without prejudice.
3. All dates previously set in OAH Case Number 2012060342 (Student's Case) are confirmed.
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 2012060342 (Student's Case).

Dated: June 22, 2012

/s/  
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ADENIYI AYOADE  
Administrative Law Judge  
Office of Administrative Hearings