

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case NO. 2014010971

v.

PASADENA UNIFIED SCHOOL DISTRICT,

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PASADENA UNIFIED SCHOOL DISTRICT,

OAH Case NO. 2013090588

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST TO  
CONSOLODATE AND MOTION TO  
CONTINUE

On September 18, 2013, Pasadena Unified School District (Pasadena) filed a Request for Due Process Hearing with the Office of Administrative Hearings (OAH) naming Student. That matter was designated as OAH case number 2013090588 (Pasadena's case). On October 3, 2013, December 9, 2013, and January 15, 2014, OAH granted continuances in Pasadena's case. The order granting the final continuance scheduled mediation for March 13, 2014, a telephonic prehearing conference (PHC) for April 14, 2014, at 10:00 a.m., and the due process hearing for April 21-24, starting at 1:30 p.m. on the first day of hearing.

On January 27, 2014, Student filed a Request for Due Process Hearing naming Pasadena. That matter was designated as OAH case number 2014010971 (Student's case). OAH scheduled mediation in Student's case for March 4, 2014, a PCH for March 17, 2014, at 1:00 p.m., and the due process hearing to commence on March 25, 2014, and continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

On February 14, 2014, Pasadena filed a motion to consolidate Student's case with Pasadena's case and a motion to continue the dates currently scheduled in Student's case and move forward with the dates in Pasadena's case. On February 19, 2014, Student filed a non-opposition to Pasadena's motion to consolidate and was silent as to the motion to continue.

## DISCUSSION

### *Motion to Consolidate*

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 interest 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, Pasadena's case and Student's case involve common questions of fact and overlapping legal issues. Pasadena's complaint puts at issue whether or not it implemented Student's individualized education program (IEP) regarding her transportation for the 2012-2013 school year; her mother's weekly transportation costs in advance of travel; and, Pasadena's offer of transportation for the 2013-2014 school year. Student essentially asserts the same issues regarding transportation and also raises an issue regarding assistive technology. Given the overlapping issues regarding whether Pasadena has offered and provided Student a free appropriate public education, consolidation is appropriate.

In addition, consolidation furthers the interest of judicial economy because both cases involve the same parties and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve introducing the same or similar documents including relevant IEP's. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by Student's case, OAH case number 2014010971.

### *Motion to Continue*

In addition to the motion to consolidate, Pasadena filed a motion to continue requesting that the dates set for Student's case be vacated and the dates set in its case be preserved. Several dates are currently calendared in Pasadena's case for a mediation (March 13, 2014), a telephonic prehearing conference (April 14, 2014) and a due process hearing (April 21-24, 2014). The specific dates for the PHC and due process hearing were requested by the parties in their joint request to continue filed with OAH on January 14, 2014. The dates set for Student's case were calendared by OAH without input from the parties.

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 relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays;

the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

In the present case, the parties met and conferred and jointly requested the dates originally scheduled in Pasadena's case. In this case, good cause exists to continue the consolidated cases to the dates previously scheduled in Pasadena's case.

Therefore, the motion to continue is granted. No further continuance requests are anticipated and will be viewed with disfavor should a request to continue the consolidated cases be filed absent a showing of extreme good cause.

### **ORDER**

1. Pasadena's motion to consolidate is granted.
2. Pasadena's motion to continue is granted.
3. The 45-day timeline for issuing the decision in the consolidated cases shall be based on the date the complaint was filed in OAH Case Number 2014010971, Student's case.
4. All dates previously set in OAH Case Number 2014010971, Student's case, are vacated. The consolidated cases are continued and calendared as follows: mediation shall be held on March 13, 2014, at 9:30 a.m.; a telephonic PHC shall be held on April 14, 2014, at 10:00 a.m.; and, the due process hearing shall be held on April 21–24, 2014, starting at 1:30 p.m. and continuing day to day thereafter at the discretion of the Administrative law Judge.

Dated: February 21, 2014

/s/

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JOY REDMON  
Administrative Law Judge  
Office of Administrative Hearings

