

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT,

OAH Case No. 2015070761

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015060459

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUE
PREHEARING CONFERENCE AND
DUE PROCESS HEARING DATES

On May 28, 2015, West Contra Costa Unified School District filed a Request for Due Process Hearing with the Office of Administrative Hearings in OAH case number 2015060459 (District's Case), naming Student. On June 18, 2015, OAH continued the hearing in District's Case from June 23, 2015 to September 22, 2015.

On June 29, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015070761 (Student's Case), naming West Contra Costa Unified School District. Student's case is scheduled for hearing on August 25, 2015. There have been no continuances of the dates in Student's Case.

On July 30, 2015, the parties filed a joint request and stipulation to consolidate District's Case with Student's Case.

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, the District's Case and Student's Case involve a common question of law or fact, specifically, both cases involve the District's December 2014 psychoeducational evaluation, and Parent's subsequent request for an independent educational evaluation. In District's Case, District contends its psychoeducational evaluation was appropriate and Student is not entitled to an independent educational evaluation. In Student's Case, Student contends District's psychoeducational assessment was inappropriate and Student is entitled to an independent education assessment. In addition, consolidation furthers the interests of judicial economy because the cases will involve the testimony of some of the same witnesses. 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).)

In this case, the parties previously stipulated to a continuance of the dates in District's case and there have been no prior continuances in Student's Case. Although the parties' request for consolidation did not specifically request to continue the earlier dates in Student's Case to the later dates in District's Case, the request to continue is implicit. Therefore, the parties' request and stipulation to consolidate is understood to include a motion to continue the consolidated matter to the later dates in District's Case. There is good cause to continue the hearing dates set in Student's Case because the cases are now consolidated.

ORDER

1. The parties' request to consolidate is granted.
2. The 45-day timeline for issuance of the decision in this consolidated matter shall be based on the date of the filing of the complaint in Student's Case, OAH Case Number 2015070761, which is designated as the primary case.
3. All dates previously set in Student's Case, OAH Case Number 2015070761, are vacated and continued as follows: The Prehearing Conference in this consolidated matter shall be held on September 11, 2015 at 10:00 a.m., and the Due Process Hearing in this consolidated matter shall be held on September 22, 2015 at 9:30 a.m., September 23, 2015 at 9:00 a.m., and then continue day-to-day, Monday through Thursday.

DATE: August 04, 2015

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings