BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017040646
LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017070627 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On April 11, 2017, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017040646 (Student's Case), naming Long Beach Unified School District (District). Student's Case was set for hearing on August 22, 2017. On July 17, 2017, District filed a Request for Due Process Hearing in OAH case number 2017070627 (District's Case). District's Case is currently set for hearing on August 10, 2017.

On July 19, 2017, District filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing date set in Case Number 2017070627 (District's Case) to August 22, 2017, the dates initially set in Student's Case.

On July 25, 2017, Student filed a motion to amend the complaint (amended complaint) in Student's Case and an objection to consolidation, or in the alternative a request that the consolidated matters be heard on August 22, 2017.

On July 28, 2017, OAH granted Student's motion to amend the complaint. The Order granting the Motion to Amend vacated all dates in Student's Case, with a Scheduling Order to issue setting new dates in 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, Student's Case, as amended, and District's Case involve a common issue of law or fact, including whether District's assessments of Student were appropriate, and whether District offered Student a free appropriate public education in Student's April 24, 2017 and May 10, 2017 individualized education programs. Student does not oppose consolidation, in principal, but instead objects to the delay in hearing the consolidated matters. However, because Student amended his complaint, Student's argument is moot because all timelines are reset in Student's case pursuant to a new scheduling order. District's motion to consolidate is granted. Student's Case is designated the primary case and the 45 day timeline to issue a decision in the consolidated matter will be based on the date Student's amended complaint in OAH Case Number 2017040646 was filed (Student's Case).

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).) District's motion to continue the consolidated hearing to the dates set in Student's case is granted for good cause. The consolidated matters shall be heard on the dates set in the scheduling order issued on Student's amended complaint.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2017070627 (District's Case) are vacated.
3. District's Motion to Continue is granted. The consolidated cases shall be heard on the dates set forth in the Scheduling Order issued on Student's amended complaint, unless otherwise ordered.

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 amended complaint in OAH Case Number 2017040646 (Student's Case).

DATE: July 31, 2017

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Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings