BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT GOLETA UNION SCHOOL DISTRICT, v. GOLETA UNION SCHOOL DISTRICT ,	OAH Case No. 2014100277
GOLETA UNION SCHOOL DISTRICT , v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014080702 ORDER GRANTING MOTION TO CONSOLIDATE

On July 28, 2014, District filed a Request for Due Process Hearing in Office of Administrative Hearings Case No. 2014080072 (first case), naming Student.

On October 6, 2014, Student filed a Request for Due Process Hearing in OAH Case No. 2014100277 (second case), naming District.

On October 6, 2014, Student filed a Motion to Consolidate the first case with the second case. On October 8, 2014, District filed an objection to consolidation on the ground that (1) the common subject of independent educational evaluation contained in each complaint does not reflect a common question of law; and (2) Student had been previously granted a continuance of the first case to January 12 through 15, 2015.

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].)

DISCUSSION

Contrary to District's contention, both cases involve a common question of law and fact, specifically, whether District is required to provide Student an independent educational evaluation at public expense, and if so, whether Student is entitled to compensatory remedies. Factual determination of these issues involves the same witnesses and the same facts, thereby furthering the interests of judicial economy. Accordingly, consolidation is granted.

HEARING DATES

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).) Student has not requested a continuance of the consolidated cases.

On October 10, 2014, OAH continued the first case at the request of Student, and provided the parties with consecutive due process hearing dates in January 2015. While District may be disgruntled with the consolidation, it is not prejudiced by further delay in having its case heard as previously scheduled.

ORDER

1. Student's Motion to Consolidate is granted.
2. With the exception of the mediation date set for November 12, 2014, all remaining dates set in OAH Case No. 2014100277 (second case) are vacated.
3. Due process hearing shall proceed as previously scheduled in OAH Case No. 2014080072 (first case), on January 12 through 15, 2015, and day to day thereafter, Monday through Thursday, at the discretion of the ALJ.
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 No. 2014100277 (second case). Further consolidation of these cases, and the vacating of the hearing dates in the second matter shall constitute a continuance of Student's filing in OAH 2014100277 (second case), as of the date of this order.

DATE: October 17, 2014

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings