BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. POWAY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019060146
POWAY UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2019061033 ORDER GRANTING MOTION TO CONSOLIDATE

On June 4, 2019, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019060146, Student's Case, naming Poway Unified School District.

On June 21, 2019, Poway Unified filed a Request for Due Process Hearing in OAH case number 2019061033, Poway Unified's Case, naming Student. On the same day, Poway Unified filed a Motion to Consolidate its case with Student's Case. Student filed an opposition to the motion on June 26, 2019.

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].)

Student's complaint explains that Parents expressed their disagreement with Poway Unified's January 2018 psychoeducational and February 2018 speech and language assessments and sought publicly funded independent educational evaluations in those areas on or about February 14, 2019. Student's complaint alleges a failure on the part of Poway Unified to timely fund independent educational evaluations in the areas of psychoeducation

and speech and language. Student's complaint also claims that Poway Unified failed to timely file a request for a due process hearing to defend its assessments in those areas. As a result, Student contends Parents were denied meaningful participation in Student's individualized education program process. Student seeks an order for Poway Unified to reimburse Parents for costs associated with independent psychoeducational and speech and language evaluations they obtained.

Poway Unified's complaint seeks to defend the appropriateness of its January 29, 2018 psychoeducational and February 13, 2018 speech and language assessments of Student. Poway Unified seeks an order that Student is not entitled to publicly funded independent educational evaluations in those areas.

Here, Poway Unified's Case and Student's Case involve a common question of law or fact, specifically whether an equitable remedy in both matters includes Poway Unified funding by way of reimbursement, the independent educational evaluations obtained by Parents. Furthermore, Poway Unified's Case is scheduled to proceed to hearing prior to Student's Case. Should Poway Unified prevail in its case by demonstrating its assessments complied with federal and state law, OAH may order that Student is not entitled to publicly funded independent psychoeducational and speech and language evaluations. However, OAH may order Poway Unified to reimburse Parents for their independent evaluations if Student was to prevail in Student's Case on the issue as to whether Poway Unified's failure to timely fund independent educational evaluations or file for due process hearing to defend its assessments denied Parents meaningful participation in the IEP process. Consolidation of the matters would avoid these inconsistent rulings.

In addition, consolidation furthers the interests of judicial economy because the same evidence and witnesses will be presented in both cases on the issue as to whether Parents are entitled to reimbursement for costs associated with their independent psychoeducational and speech and language evaluations. Accordingly, consolidation is granted.

ORDER

1. Poway Unified's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Poway Unified's Case, OAH case number 2019061033 are vacated. The consolidated matters shall proceed on the dates currently set in Student's Case, OAH case number 2019060146.

3. 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 Student's Case, OAH case number 2019060146.

DATE: June 27, 2019

DocuSigned by:
Rommel P. Cruz
2ABEBDA0DF98475...

ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings