BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FOUNTAIN VALLEY SCHOOL DISTRICT,	OAH Case No. 2017051181
FOUNTAIN VALLEY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017030021 ORDER GRANTING MOTION TO CONSOLIDATE

On February 27, 2017, Fountain Valley School District filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2017030021(District's Case), naming Student.

On May 24, 2017, Student filed a request for due process hearing in OAH case number 2017051181 (Student's Case), naming Fountain Valley.

On May 24, 2017, Student filed a Motion to Consolidate Student's Case with District's Case.

On May 25, 2017, Fountain Valley filed an opposition to consolidation on the grounds that Student raises different issues in her case than those in Fountain Valley's case, that District's case has already been continued once, and that Student unreasonably delayed filing her own case. On May 26, 2017, Student filed a reply to the opposition, explaining, as she did in the motion to consolidate, that it made several requests for records from Fountain Valley, and in response received several hundred pages of documents that needed to be reviewed before the request for due process could be drafted.[1]

APPLICABLE LAW

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

[1]Fountain Valley has filed a motion to strike Student's reply which will be ruled upon in a separate order.

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

Fountain Valley's request for due process asks that it be allowed to implement an individualized education program offer that resulted from several IEP team meetings in 2016 and 2017, ending with a final offer being made in February 2017. Student's request for due process challenges the IEP that was developed for the 2015-2016 school year (and is still in effect), claiming it did not provide her with a free appropriate public education. It also challenges Fountain Valley's IEP offer that is at issue in Fountain Valley's case, as well as claiming that Fountain Valley delayed filing its complaint for an unreasonable period of time, thus denying Student a FAPE for the 2016-2017 school year.

Here, District's Case and Student's Case involve common questions of law or fact, specifically, whether Fountain Valley's IEP offer that was finalized in February 2017 was an offer of a FAPE. Although Student raises the additional claim concerning the IEP in effect that was developed during 2015-2016 school year, consolidation should be granted since it furthers the interests of judicial economy in that there will be only one hearing, with many of the same witnesses, and consolidation would avoid inconsistent rulings. Accordingly, Student's motion for consolidation is granted.

ORDER

1. Student's motion to consolidate is granted.

2. All dates previously set in OAH Case Number 20130021 (District's Case) are vacated.

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 OAH Case Number 2017051181 (Student's Case).

IT IS SO ORDERED.

DATE: June 2, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings