BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. VISTA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019010037
VISTA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018110362 ORDER GRANTING MOTION TO CONSOLIDATE, DESIGNATING STUDENT'S CASE AS LEAD CASE, AND DENYING STUDENT'S MOTION TO CONTINUE AS MOOT

On November 8, 2018, Vista Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018110362 (Vista's Case), naming Student as a party. This matter is currently scheduled for hearing beginning January 15, 2019.

On January 2, 2019, Student filed a Request for Due Process Hearing in OAH case number 2019010037 (Student's Case), naming Vista. This matter is scheduled for hearing beginning March 5, 2019.

On January 2, 2019, Student filed a Motion to Consolidate Student's Case with Vista's Case. On January 7, 2019, Vista filed an opposition to Students motion on the grounds that consolidation would unnecessarily and unjustly delay resolution of Vista's Case. Vista requests that the matters proceed to hearing on the dates set for Vista's Case if OAH grants consolidation. On January 8, 2019, Student filed a response to Vista's opposition, as well as a renewed motion to continue the dates set for Vista's Case.

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

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

Vista objects to consolidation because it will result in a further continuance of this matter. Vista's argument that OAH should deny Student's motion to consolidated because OAH recently denied Student's request to continue the hearing is not persuasive. Determining whether there is good cause to continue a matter is separate from determining whether there are grounds to grant consolidation. Further, while Vista's matter has been pending since November 2018, Vista requested that its original hearing date be continued.

Vista's Case puts at issue whether its January 31, 2018 individualized education program for Student as amended March 12, April 11, August 23, and October 24, 2018, provides Student a free appropriate public education. Student's Case alleges that Vista denied him a FAPE during the 2018-2019 school year by failing to provide an appropriate transition plan, a small school setting, and a small classroom setting, and by failing to consider his independent educational evaluation and follow-up reports. Student, in part, seeks a nonpublic school placement through his IEP. Student's Case and Vista's Case involve common questions of law or fact. As such, consolidation is warranted and will prevent the risk of inconsistent rulings. In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve the introduction of many of the same documents. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by Student's Case. Given the legal requirements governing the 30-day resolution period, Vista's request to maintain the current hearing schedule is denied. (34 C.F.R. § 300.510; Ed. Code, § 56501.5.) In light of this order, Students request for a continuance is denied as moot.

ORDER

1. Students Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2018110362, Vista's Case, are vacated.
3. The consolidated matters shall now proceed on the dates scheduled for Student's Case. The prehearing conference shall be held on February 22, 2019, at 1:00p.m.,

and the due process hearing will be held on March 5, 2019, at 9:30 a.m., March 6-7, 2019, at 9:00 a.m., and continue day-to-day, as needed, at the discretion of the Administrative Law Judge.

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 Number 2019010037, Student's Case.
5. Students request for continuance is denied as moot.

IT IS SO ORDERED.

DATE: January 8, 2019

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings