BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. WHITTIER UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017091052 (Primary)
WHITTIER UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case Nos. 2017070264 and 2017061032 (District's Cases) ORDER GRANTING MOTION TO CONSOLIDATE STUDENT'S CASE WITH DISTRICT'S CASES

On June 27, 2017, Whittier Union High School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017061236 (District's First Case), naming Student. On July 7, 2017, District filed a Request for Due Process Hearing in OAH case number 2017070264 (District's Second Case), naming Student. On July 20, 2017, OAH ordered District to provide briefing on its position regarding consolidation. On July 28, 2017, District submitted a brief stating it was not opposed to consolidating District's First Case with District's Second Case. On August 1, 2017, OAH granted District's motion to consolidate District's First Case with District's Second Case, setting a hearing date of October 11, 2017.

On September 26, 2017, Student filed with OAH a Request for Due Process Hearing in OAH case number 2017091052 (Student's Case), and requested that his case be consolidated with the two District cases. OAH requested that Student file a separate Motion to Consolidate, which Student did on September 29, 2017. On October 4, 2017, District opposed consolidation on the grounds that the District's cases and Student's case involve different issues and witnesses. District contended that its two cases involve the same May 2015 individualized education program; whereas Student's Case, with an issue regarding District's alleged failure to implement a behavior intervention plan in stay put, did not. District also contended that consolidation impacted its right to a speedy resolution, and could potentially impact its witness availability because Student's Case is currently set for hearing on November 21, 2017, close to the Thanksgiving holiday. On October 5, 2017, Student

filed a reply disputing District's contention that the witnesses of the three cases would not be the same.

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, District's cases and Student's case involve a common question of law or fact, specifically, the IEPs, including any behavior support plans, which were in effect and offered in the 2016-2017 school year. Some of District's issues involved the appropriateness of its multidisciplinary assessments, including the appropriateness of its psychoeducational assessment. Student's proposed resolutions included requests for independent psychoeducational and functional behavior assessments. Evidence regarding the appropriateness of publicly funded assessments would be in all three cases. Any differences in witnesses between the District's cases and Student's case would not be significant enough to justify a separate hearing for Student's Case alone, especially considering the factors of judicial economy when all three cases involve the same parties and the possibility of duplicative rulings if District's cases were heard separately from Student's Case.

The hearing date in District's cases was scheduled for October 11, 2017. Having all three cases heard on November 21, 2017 to further judicial economy justifies a brief delay in the resolution of District's cases separately. Further, the ALJ will consider all reasonable requests to accommodate witnesses at the time of the prehearing conference. Accordingly, consolidation is ordered.

ORDER

1. District's cases and Student's Case are consolidated.
2. All dates previously set in OAH Case Number 2017070264, District's Second Case are vacated.
3. The 45-day timeline for issuance of the decision in the three consolidated cases shall be based on the date of the filing of the complaint in Student's Case, OAH Case Number 2017091052.

IT IS SO ORDERED.

DATE: October 6, 2017

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings