BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

MOUNT DIABLO UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2019080724

and

MOUNT DIABLO UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019090698

ORDER GRANTING MOTION TO CONSOLIDATE AND DESIGNATING STUDENT'S CASE AS PRIMARY CASE

On August 20, 2019, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2019080724,

Student's Case, naming Mount Diablo Unified School District. Student's Case is scheduled for hearing beginning October 15, 2019.

On September 18, 2019, Mount Diablo filed a Request for Due Process Hearing in OAH case number 2019090698, Mount Diablo's Case, naming Student.

On September 18, 2019, Mount Diablo filed a Motion to Consolidate the two matters and requested that the consolidated matter proceed on the dates to be set for Mount Diablo's Case. On September 20, 2019, Student filed an opposition in part, supporting consolidation, but requesting that the consolidated matter proceed on the dates scheduled for Student's Case. Pursuant to the September 19, 2019 Scheduling Order, Mount Diablo's Case has been scheduled for the same dates as Student's Case.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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, Student's Case and Mount Diablo's Case involve common questions of law and fact. Student identifies Mount Diablo's alleged failure to appropriately assess him as an issue for hearing. In part, Student challenges Mount Diablo's 2018 psychoeducational and academic assessments and is requesting independent education evaluations in these areas. Mount Diablo is seeking to defend these two evaluations and seeks an order that they are legally compliant such that it need not fund

independent educational evaluations pursuant to Student's request. Therefore, consolidation is warranted.

Further, consolidation will advance the interest 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 case. Here, the statutory timelines shall be controlled by Student's Case.

ORDER

1. Mount Diablo's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Mount Diablo's Case, OAH case number 2019090698, are vacated.
3. The consolidated matter shall proceed on the dates previously set in Student's Case, OAH case number 2019080724. The prehearing conference shall be held on October 7, 2019, at 1:00 p.m. The due process hearing shall be held on October 15 through 17, 2019, beginning at 9:30 a.m. on the first day, and 9:00 a.m. on all other days, continuing 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 Student's Case, OAH case number 2019080724.

IT IS SO ORDERED.

DATED: September 24, 2019

DocuSigned by:
Theresa Ravandi
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Theresa Ravandi
Administrative Law Judge
Office of Administrative Hearings