BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOMPOC UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019041183
LOMPOC UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019060788 ORDER PARTIALLY GRANTING LOMPOC'S MOTION TO CONSOLIDATE AND CONSOLIDATING OAH CASE NUMBER 2019041183 AND OAH CASE NUMBER 2019060788

On April 26, 2019, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings in OAH case number 2019041183 naming Lompoc Unified School District. The matter is set for hearing on July 16, 17, and 18, 2019.

On June 14, 2019, Student filed a second complaint in OAH Case Number 2019060655, also naming Lompoc Unified. That matter is set for hearing on August 6, 7, and 8, 2019.

On June 17, 2019, Lompoc Unified filed a complaint naming Parent on Student's behalf in OAH Case Number 2019060788. That matter is set for hearing on July 16, 17, and 18, 2019.

On June 27, 2019, Lompoc filed a motion to consolidate its case with Student's cases OAH 2019041183 and OAH Case Number 2019070655. Student filed a conditional notice of non-opposition on June 28, 2019, objecting to a hearing date later than that set in OAH Case Number 2019041183.

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, Student filed two cases, two months apart, which she is entitled to do under title 20 United States Code section 1415(o). Under that section, Student is also entitled to separate hearings, unless Student amends one of her complaints to include all issues and dismisses the other complaint for those two cases to be heard in one hearing.

Student's first complaint in OAH Case Number 2019041183 raises two claims for relief. First Student alleges Lompoc Unified denied her a free appropriate public education by failing to address her need for behavior support. Second, Student alleges Lompoc Unified denied Student a FAPE by failing to assess her in all areas of suspected disability. Student seeks an order that compels Lompoc Unified to fund an immediate placement in a residential treatment center, or intensive mental health support, behavior intervention, and compensatory education.

Student's second complaint in OAH Case Number 2019060655 raised three claims, one of which Student dismissed on June 26, 2019. Student's remaining two claims allege that 1) Lompoc Unified denied Student a FAPE by failing to find her eligible for special education, and 2) whether Student requires a residential placement to receive a FAPE.

Lompoc Unified's complaint in OAH Case Number 2019060788 raises two issues. First, Lompoc Unified seeks an order permitting it to assess Student in all areas of suspected disability without parental consent, claiming Parent refused to consent to assessments. Second, Lompoc Unified claims Student is not entitled to an independent educational evaluation at public expense because Parent refused to consent to assessments when approached by Lompoc.

OAH will not consolidate Student's two cases because Student has exercised her choice to two hearings. Lompoc Unified's motion to consolidate Student's Case Number 2019060655 with OAH Case Numbers 201905118 and 2019060788 is **denied**. However, Student's first complaint and Lompoc Unified's complaint raise similar if not the same issues. Therefore, consolidation of Student's First Case and Lompoc Unified's Case is appropriate. Judicial economy is served because the two cases will involve the same evidence and witnesses.

Student does not oppose consolidation if the matters proceed to hearing on the dates set in OAH Case Number 201904118, which are the same dates as those in OAH Case Number 2019060788. Therefore, consolidation is **granted** as to OAH Case Number 2019041118 and OAH Case Number 2019060788. Student's OAH Case Number 2019041118 is primary.

ORDER

1. Lompoc Unified's Motion to Consolidate OAH Case Numbers 2019041118, 2019060655 and OAH Case Number 2019060788, all to be heard on the same date, is denied.
2. Lompoc Unified's Motion to Consolidate Student's first case, OAH Case Number 2019041118, and Lompoc Unified's complaint in OAH Case Number 2019060788, is granted.
3. All dates previously set in OAH Case Number 2019060788 are vacated. The matter shall proceed to hearing on the dates in OAH Case Number 2019041118.
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 first case, OAH Case Number 2019041118.

DATE: June 28, 2019

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Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings