BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016010404 (Primary)
SAN DIEGO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016020351 ORDER GRANTING MOTION TO CONSOLIDATE AND CONTINUING MEDIATION

On January 14, 2014, Student filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2016010404 naming San Diego Unified School District (Student's Case).

On February 4, 2016, District filed a request for due process hearing in OAH case number 2016020351 naming Student (District's Case). On February 4, 2016, District also filed a motion to consolidate Student's Case and District's Case.

On February 4, 2016, the parties filed a joint request to continue the mediation date in Student's case. On February 8, 2016, Student filed a non-opposition to District's consolidation motion.

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

Student's Case alleges that District denied Student a free appropriate public education when it (1) failed to offer appropriate services and placement in the individualized education program of November 3, 2015, (2) failed to offer Student the least restrictive environment in the IEP of November 12, 2015, and (3) failed to implement a September 3, 2015 settlement agreement. District's Case seeks a decision that District's November 12, 2015 IEP offered Student a FAPE.

Here, the Student's Case and the District's Case involve common questions of law or fact, specifically, whether the IEP of November 12, 2015 offered Student appropriate special education and related services in the least restrictive environment. Consolidation furthers the interest of judicial economy because the same witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately.

The dates in District's Case are scheduled to occur before the dates scheduled in Student's Case. Accordingly, the dates in District's Case are continued to the dates currently scheduled for Student's Case, and the mediation of the consolidated cases is reset to the mutually agreed date requested. In accordance with OAH scheduling guidelines, multiple days will be reserved for the due process hearing.

ORDER

1. District' motion to consolidate Student's Case (OAH case number 2016010404) and District's Case (OAH case number 2016020351) is granted.

2. All currently scheduled dates in District's case are vacated and shall be reset to the dates scheduled in Student's Case.

3. The parties' joint request to continue mediation in Student's Case is granted.

4. Mediation in the consolidated matters shall take place on 9:30 a.m. on February 23, 2016. The prehearing conference shall take place at 3:00 p.m. on February 29, 2016. OAH will initiate the call. The due process hearing shall be held on March 9, 10 and 14, 2016, at 9:30 a.m. on the first day, at 1:30 p.m. on March 14, 2016, and at 9:00 a.m. on all other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's Case.

DATE: February 9, 2016

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Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings