BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ALHAMBRA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017010013 (Primary)
ALHAMBRA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016090921 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING JOINT REQUEST TO CONSOLIDATE AND CONTINUE THE PREHEARING CONFERENCE AND DUE PROCESS HEARING

On January 6, 2017, a telephonic prehearing conference was held before Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings. Geoffrey Winterowd, Attorney at Law, appeared on behalf of District. Damian Fragosa, Attorney at Law, appeared on behalf of Student. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Hearing Dates, Times, and Location/Motion to Consolidate and Continue the hearing dates. On September 22, 2016, District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016090921 (District's Case), naming Student. On October 11, 2016, District's Case was continued pursuant to a joint request for continuance. On December 29, 2016, Student filed a Request for Due Process Hearing in OAH case number 2017010013 (Student's Case), naming District. On January 6, 2016, the parties filed a joint request to consolidate District's Case with Student's Case, vacate the hearing dates in District's case and to continue the hearing in the consolidated cases to May 9, 10 and 11, 2017.

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 Case and Student's Case involve common questions of law or fact, specifically, both cases involve the appropriateness of District's assessments In addition, consolidation furthers the interests of judicial economy because both cases will involve the presentation at hearing of some of the same witness testimony and other evidence.

Accordingly, consolidation is granted. All dates previously set in District's Case OAH case no. 2016090921 are vacated, and this consolidated matter shall proceed on the dates scheduled in Student's Case.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The parties request that the hearing date in the consolidated cases be continued to May 9, 10, and 11, 2017. There have been no prior continuances of Student's case. Good cause having been shown, the prehearing conference and due process hearing are continued to the dates set forth below:

The telephonic prehearing conference in the consolidated matters is continued to **April 28, 2017, at 1:00 p.m**. OAH will initiate the conference call. PHC statements shall be filed with OAH and served by the parties no later than three business days prior to April 28, 2017, and in compliance with the prior Scheduling Order issued in Student's case.

The due process hearing shall take place on **May 9, 10 and 11, 2017,** and continue day to day, Monday through Thursday, as needed at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. with the exception of the first day of hearing, on which day the hearing shall begin at 9:30 a.m., unless otherwise ordered. The hearing shall take place at the District's offices located at **Alhambra Unified School District, 1515 West Mission Road, Alhambra, California 91803.**

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 2017010013 and Student's Case is designated the primary case.

As ordered in the scheduling order, the named local educational agency was to provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities. At the time of the Prehearing Conference, the named local educational agency failed to certify that it would provide a facility for this case that complied with the law. **The local educational agency shall certify to OAH by way of a certification signed under penalty of perjury that its hearing facilities comply with the law, or notify OAH that it is unable to comply with this order by no later than January 10, 2017.**

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

2. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached,

the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

IT IS SO ORDERED.

DATE: January 6, 2017

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings