BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

CONEJO VALLEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2019060457

and

CONEJO VALLEY UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019070976

ORDER GRANTING MOTION TO CONSOLIDATE

On June 12, 2019, Parent on behalf of Student filed with the Office of Administrative Hearings, commonly referred to as OAH, a Request for Due Process Hearing in OAH case number 2019060457, Student's Case, naming Conejo Valley

Unified School District. A Request for Due Process Hearing is also referred to as a complaint.

On July 15, 2019, OAH granted Student's motion to amend his complaint.

On July 24, 2019, Conejo Valley Unified filed a complaint in OAH case number 2019070976, Conejo Valley Unified's Case, naming Student.

On July 29, 2019, Conejo Valley Unified filed a Motion to Consolidate its case with Student's Case. Student filed an opposition to the motion on July 29, 2019. On July 30, 2019, Conejo Valley Unified filed a reply to the opposition.

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 amended complaint explains that Parents expressed their disagreement with Conejo Valley Unified's September 2018 functional behavior assessment. Student's amended complaint alleges a failure on the part of Conejo Valley Unified to timely fund an independent educational evaluation in the area of functional behavior. Student's complaint also claims that Conejo Valley Unified failed to timely file a request for a due process hearing to defend its functional behavior assessment. As a result, Student claims Parents are entitled to an independent functional behavior

assessment at public expense. Furthermore, Student contends the March 5, 2019 individualized education program, also referred to as an IEP, did not offer him a free appropriate public education. A free appropriate public education is commonly referred to as FAPE.

Conejo Valley Unified's complaint seeks to defend the appropriateness of its September 2018 functional behavior assessment and the March 5, 2019 IEP's offer of FAPE. Conejo Valley Unified seeks an order that Student is not entitled to a publicly funded independent educational evaluation in the area of functional behavior. Conejo Valley Unified also seeks a finding that its March 5, 2019 IEP offered Student a FAPE and an order to implement the IEP without parental consent.

Conejo Valley Unified's Case and Student's Case involve common questions of law or fact, specifically whether an equitable remedy in both matters includes Conejo Valley Unified funding an independent functional behavior assessment. Further, Conejo Valley Unified's Case is scheduled to proceed to hearing prior to Student's Case. Should Conejo Valley Unified prevail in its case by demonstrating its assessment complied with federal and state law, OAH may order that Student is not entitled to a publicly funded independent functional behavior assessment. However, OAH may order Conejo Valley Unified to fund an independent functional behavior assessment if Student was to prevail in his case on the issue as to whether Conejo Valley Unified's failure to timely fund independent educational evaluations or file for due process hearing to defend its assessment denied him a FAPE. Consolidation of the matters would avoid these inconsistent rulings. Furthermore, both cases involve a question as to whether the March 5, 2019 IEP offered Student a FAPE.

In addition, consolidation furthers the interests of judicial economy because the same evidence and witnesses will be presented in both cases on the issues as to

whether Student is entitled to a publicly funded independent functional behavior assessment and whether the March 5, 2019 IEP offered Student a FAPE. Accordingly, consolidation is granted.

ORDER

1. Conejo Valley Unified's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Conejo Valley Unified's Case, OAH case number 2019070976 are vacated. The matter shall proceed on the dates currently set in Student's Case, OAH case number 2019060457.
3. 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 2019060457.

DATED: July 31, 2019

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings