BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017120674
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018031019 ORDER GRANTING MOTION TO CONSOLIDATE

On January 23, 2018, Parents on behalf of Student filed an amended request for due process hearing with the Office of Administrative Hearings in OAH case number 2017120674 (Student's case), naming Capistrano Unified School District. On February 9, 2018, OAH granted the parties' joint request for continuance, setting the prehearing conference in Student's case for May 4, 2018, and the due process hearing for May 15 – 17, 2018.

On March 23, 2018, District filed a request for due process hearing in OAH case number 2018031019 (District's case) naming Parents on behalf of Student. District filed a motion to consolidate its case with that of Student on April 2, 2018. Student filed a notice of non-opposition to District's motion on April 4, 2018.

APPLICABLE LAW AND DISCUSSION

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 raises six allegations in her complaint. The issues all contend that District denied Student a free appropriate public education at various times between December 18, 2015, and the filing of Student's amended complaint by actions District took or failed to take. Student seeks various remedies to the alleged violations, including reimbursement to Parents for the costs of Student's private placement and prospective placement at a non-public school funded by District.

District's complaint contends that Parents have improperly failed to consent to the triennial assessment District wishes to administer to Student. District's issue asks whether it may assess Student without her Parents' consent. District's proposed remedies include an order that it may assess Student without parental consent if Parents wish District to be responsible for providing Student with special education and related services. District also requests an order that if District prevails on its issue for hearing, it is not responsible for reimbursing Parents for Student's educationally related expenses, until such time as Parents agree to the assessment.

Although Student's issues and District's issue are not facially similar in that they do not involve common issues of law, it is clear that the issues cover similar time periods. The issues will involve similar witnesses and, potentially, similar evidence. Additionally, consolidation furthers the interests of judicial economy by avoiding the necessity of the parties participating in two hearings close in time as District's request to consolidate will not delay the already continued Student's case.

For these reasons, District's unopposed motion to consolidate is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2018031019 [District's Case] are vacated.
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 OAH Case Number 2017120674 [Student's Case], which is designated the primary case.

DATE: April 5, 2018

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings