BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ELK GROVE UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017080698
ELK GROVE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017100990 ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

On August 16, 2017, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017080698 (Student's Case), naming Elk Grove Unified School District.

On October 23, 2017, District filed a Request for Due Process Hearing in OAH case number 2017100990 (District's Case), naming Student.

On October 23, 2017, District filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing date set in Student's Case, case number 2017080698.

On October 26, 2017, Student filed an objection to consolidation on the ground that the Student's Case and District's Case do not involve common questions of law or fact and consolidation would result in a delay in the adjudication of Student's claims.

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, Student's Case and District's Case involve a common question of law or fact, specifically, whether District failed to assess Student in all areas of suspected disability during the 2017-2018 school year. In addition, consolidation furthers the interests of judicial economy because each case involves identical parties and will likely involve the same documentary evidence and witnesses. Accordingly, consolidation is granted.

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).)

District's motion to continue the hearing fails to provide any argument in support of a continuance, and fails to demonstrate why the hearing on the consolidated cases cannot be heard on the dates provided for in Student's Case because of the common questions of law and fact that supported consolidation. Therefore, District's motion to continue is denied.

ORDER

1. District's Motion to Consolidate is granted. Student's Case, OAH case number 2107080698 is designated as the primary case.
2. All dates previously set in District's Case, OAH case number 2017100990 are vacated.
3. District's Motion to Continue is denied. The consolidated cases will proceed on the dates and times as set forth in Student's Case, OAH case number 2107080698.
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 Case, case number 2017080698.

DATE: October 30, 2017

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