BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN MARCOS UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018101112
SAN MARCOS UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019020520 ORDER GRANTING MOTION TO CONSOLIDATE AND TO CONTINUE AND DESIGNATING STUDENT CASE AS LEAD CASE

On October 25, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018101112 (Student's Case), naming San Marcos Unified School District. This matter is scheduled for hearing beginning March 5, 2019.

On February 14, 2019, San Marcos filed a Request for Due Process Hearing in OAH case number 2019020502 (San Marcos' Case), naming Student. This matter is scheduled for hearing beginning March 12, 2019.

On February 14, 2019, San Marcos filed a Motion to Consolidate the two matters and requested that the consolidated matter proceed on the dates set for San Marcos' Case. On February 14, 2019, Student filed a non-opposition.

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].)

Student's Case alleges that San Marcos denied him a free appropriate public education by failing to timely assess him and timely hold an individualized education program team meeting. Student seeks reimbursement for a private placement. San Marcos filed to defend its November 2018 assessment of Student and seeks an order that it is not required to provide Student with an independent psychoeducational evaluation at public expense. Here, Student's Case and San Marcos' Case involve a common question of law or fact, specifically, whether San Marcos' November 2018 psychoeducational evaluation of Student met all legal requirements. As such, consolidation is warranted. Further, consolidation will advance the interests of judicial economy because both cases involve the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matte will also involve the introduction of many of the same documents. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by 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).)

San Marcos' request that the consolidated matter proceed on the dates scheduled for its case constitutes a request to continue. Student did not oppose the request. Given the facts of this case and the order granting consolidation, San Marcos has established good cause to continue the consolidated matter to the dates set initially scheduled for San Marcos' Case.

ORDER

1. San Marcos' Motion to Consolidate is granted.
2. 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 2018101112, Student's Case.

3. San Marcos' Motion to Continue is granted. The consolidated matter shall now proceed on the dates scheduled for San Marcos' Case. The prehearing conference shall be held on March 4, 2019, at 3:00 p.m., and the due process hearing will be held on March 12, 2019, at 9:30 a.m., March 13-14, 2019, at 9:00 a.m., and continue day to day, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: February 15, 2019

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings