BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. POWAY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017070301
POWAY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017050870 ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

On May 17, 2017, Poway Unified School District filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2017050870 (District's Case), naming Student.

On July 10, 2017, Student filed a request for due process hearing in OAH case number 2017070301 (Student's Case), naming Poway. On July 10, 2017, Student also filed a motion to consolidate Student's Case with District's Case and to continue the due process hearing dates of September 13, and 14, 2017, currently set in case number 2017050870 (District's Case).

On July 13, 2017, Poway filed an objection to consolidation on the ground that a hearing concerning its case would take less time than a hearing concerning both cases because Student placed additional school years at issue, rather than just the 2017-2018 school year that District placed at issue in its complaint. Further, Poway argued that it is paying $273 per school day to hold a place for Student in the nonpublic school it wants her to attend, and a continuance would further delay a decision concerning placement for the 2017-2018 school year.

APPLICABLE LAW

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].)

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).)

DISCUSSION

Student's Case and District's Case involve a common question of law or fact, specifically, Student's placement for the upcoming 2017-2018 school year. Evidence concerning that placement would encompass events during the previous school years. Consolidation furthers the interests of judicial economy because most of the witnesses and evidence will be the same in a consolidated case, compared to a hearing limited to District's issue, even though Student also placed the 2015-2016, and 2016-2017 school years at issue. Student's motion to consolidate Student's Case with District's Case is granted.

In regards to Student's motion to continue the hearing set for September 13, and 14, 2017, in District's Case, because the cases are being consolidated, all dates in District's Case, OAH case number 2017050870 will be vacated. Therefore Student's motion for a continuance is denied because it is moot. The matter will proceed in accordance with the dates currently set in Student's Case.

ORDER

1. Student's motion to consolidate is granted. All dates previously set in OAH Case Number 2017050870, District's Case, are vacated.

2. The consolidated matter shall proceed on the dates currently set in Student's Case, OAH Case No. 2017070301, with mediation on August 15, 2017, at 9:30 a.m., Prehearing Conference on August 28, 2017, at 1:00 p.m., and Hearing to begin at 9:30 a.m., on September 6, 2017, continuing day to day, Monday through Thursday at the discretion of the Administrative Law Judge.

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 2017070301, Student's Case.

IT IS SO ORDERED.

DATE: July 14, 2017

DocuSigned by:

Rebecca Freie

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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings