BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: ACALANES UNION HIGH SCHOOL DISTRICT , v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018020884
PARENT ON BEHALF OF STUDENT, v. ACALANES UNION HIGH SCHOOL DISTRICT AND MORAGA SCHOOL DISTRICT.	OAH Case No. 2017101040 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION TO CONSOLIDATE AND MOTION TO CONTINUE PREHEARING CONFERENCE AND HEARING

On February 26, 2018, a telephonic prehearing conference was held before Administrative Law Judge Rita Defilippis, Office of Administrative Hearings. Carley Christopher, Attorney at law, represented Student. Kimberly Schulist, Attorney at Law, and Michale Cullen, Attorney at law, appeared on behalf of Acalanes Union High School District. Sarah Garcia, Attorney at Law, appeared on behalf of Moraga School District. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Acalanes' Motion to Consolidate. On October 24, 2017, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017101040 (Student's Case), naming Acalanes Union High School District and Moraga School District. Student's Case is scheduled for hearing beginning March 6, 2018.

On February 21, 2018, Acalanes filed a Request for Due Process Hearing in OAH case number 2018020884 (Acalanes' Case), naming Student. Acalanes' case is scheduled for prehearing conference on March 9, 2018, and hearing on March 15, 2018.

On February 21, 2018, Acalanes filed a Motion to Consolidate the two cases. Student has not filed a response to the motion. Moraga filed a non-opposition to the 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].)

Acalanes seeks to consolidate the two cases as they involve similar issues, facts and evidence. Acalanes' sole issue is whether the February 8, 2018 IEP amendment offers Student a free appropriate public education such that Acalanes may implement the IEP without Parental consent. One of Student's issues in Student's case is whether Acalanes denied Student a FAPE in the 2017-2018 school year by failing to offer him an IEP reasonably calculated to provide him a FAPE. Argument was heard at the prehearing conference. Student claims that the two cases involve different issues because Student's complaint challenged an IEP in September, 2017. Acalanes claims that regardless of the IEP being challenged as the alleged denial of FAPE, the two cases involve overlapping timeframes, similar issues and will require the same witnesses and documentary evidence.

Here, Acalanes Case and Student's Case involve common questions of law and fact. Accordingly, consolidation is warranted and will prevent the risk of inconsistent rulings. In addition, consolidation furthers the interest 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 matter will also involve the introduction of the same or similar documents. Acalanes' Motion to Consolidate is therefore Granted.

When consolidating cases, OAH designates one case to be the Primary case. Here, Acalanes Case No. 2018020884 shall be designated the primary case.

2. Acalanes Motion for Continuance. On February 21, 2017, Acalanes included a Motion for Continuance with the Motion to Consolidate. Acalanes' request for continuance is based on the need for more time to prepare for the consolidated cases. Student was opposed to the continuance and claimed that the later dates would prejudice Student. Moraga filed a non-opposition to the Acalanes' Motion to Continue. Based on consideration of Acalanes' motion and the Parties' argument at the prehearing conference, good cause for Acalanes' Motion for Continuance is found. Any prejudice to Student caused by the one month continuance in this caseis minimal.

ORDER

1. Acalanes' Motion to Consolidate is granted.

2. All dates previously set in Student's OAH Case Number 2017101040 and Acalanes' OAH case number 2018020884, are vacated.

3. The consolidated matter shall now proceed on the continued dates as follows: the prehearing conference will be held on April 9, 2018, at 10:00 a.m. The due process hearing shall take place on April 17, 18, 19, 25, 26, and May 1, 2018, continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. all other days, unless otherwise ordered.

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 OAH Case Number 2018020884, Acalanes' Case.

All other issues will be discussed at the continued prehearing conference.

IT IS SO ORDERED.

DATE: February 26, 2018

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Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings