BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT,	OAH Case No. 2015071255
SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015100591 ORDER GRANTING MOTION TO CONSOLIDATE AND MOTION TO AMEND AND DENYING MOTION TO CONTINUE AS MOOT

On July 21, 2015, Student filed a Request for Due Process Hearing in Office of Administrative Hearings Case Number 2015071255 (Student's Case), naming San Dieguito Union High School District.

On October 15, 2015, District filed a Request for Due Process Hearing in OAH Case Number 20151009591 (District's Case), naming Student.

On October 15, 2015, District filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing date set in District's Case.

Student did not oppose District's Motion to Consolidate and Continue.

On October 21, 2015, Student filed a Motion to Amend Complaint and Student's First Amended Complaint.

District did not oppose Student's Motion to Amend.

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].)

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

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

Here, the Student's Case, as amended, and District's Case involve common questions of law or fact, specifically, District's reliance on prior District's assessment as a basis for an individualized educational program and resulting offer of a free, appropriate public education, and Student's subsequent request for an independent educational evaluation. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because it will prevent duplication of evidence and the possibility of inconsistent decisions. Accordingly, consolidation is granted.

Additionally, the motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

District's motion to continue the hearing is moot as Student's filing of a first amended complaint will reset the timeline.

ORDER

1. District's Motion to Consolidate is granted, consolidating Student's Case, OAH Case Number 2015071255, with District's Case, OAH Case Number 20151009591.
2. Student's Motion to Amend the Complaint and file a first amended complaint is granted. The Amended Complaint is deemed filed as of the date of this Order.
3. All dates previously set in OAH Case Numbers 2015071255 and 20151009591 are vacated.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's first amended complaint in OAH Case Number 2015071255.
5. OAH will issue a scheduling order with the new dates.

DATE: October 23, 2015

/s/

TED MANN
Administrative Law Judge
Office of Administrative Hearings