BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT , v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016080211
PARENT ON BEHALF OF STUDENT, v. MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT .	OAH Case No. 2016090033 ORDER GRANTING STUDENT'S MOTION TO CONSOLIDATE

PROCEDURAL BACKGROUND

On August 3, 2016, the Mountain View-Los Altos Union High School District filed a request for a due process hearing with the Office of Administrative Hearings naming Parent on behalf of Student. OAH assigned number 2016080211 to District's case. On August 24, 2016, OAH granted the parties' joint request for continuance, setting a prehearing conference in District's case for September 26, 2016, and a due process hearing for October 4 through October 6, 2016.

Student filed a request for a due process hearing on August 23, 2016, in OAH case number 2016090033. Student's request for due process contained a motion to consolidate Student's case with that of District. On August 26, 2016, District filed an opposition to Student's motion to consolidate.

APPLICABLE LAW AND DISCUSSION

There are no statutes or regulations that specifically provide a standard to be applied in deciding a motion to consolidate special education cases. However, 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].)

District's case seeks an order from OAH that District may assess Student pursuant to its June 17, 2016 assessment plan, without the consent of Student's parent. Student's case seeks a finding that District's April 26, 2016, and June 17, 2016, offers of individualized education programs do not constitute a free appropriate public education, thereby entitling Student to his requested remedies.

In its opposition to the motion to consolidate, District contends that the two cases do not involve common issues of fact and law, and that consolidation is not justified. District cites to several OAH cases where consolidation of a district case involving the right to assess and a student case involving FAPE issues was denied.

Student, conversely, contends that the two cases are interrelated because both involve whether there was sufficient information available to District for it to make an IEP offer for Student for the 2016-2017 school year. Student contends that many of the same witnesses will also be called to testify in both cases.

District is correct that its issues are dissimilar from Student's. However, in all likelihood, many of the same witnesses will be needed in both cases as District will have to present testimony from Student's IEP team to support its request to assess as well as to defend its IEP offers. The interests of judicial economy will be more properly served by having these witnesses testify at only one, rather than at two, hearings. This factor is even more apparent given that District's case is scheduled for hearing only two weeks before the date presently set for Student's hearing. However, since the parties have agreed upon hearing dates and the matters involve similar witnesses this matter should be heard on the dates in District's Case.

For these reasons, Student's motion to consolidate is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2016090033 [Student's Case] are vacated.
3. This matter shall proceed on the dates presently set in District's case: Prehearing Conference on September 26, 2016, at 1:00 p.m.; and Due Process Hearing on October 4 through 6, 2016, starting at 9:30 a.m., and continuing day to day, Monday through Thursday, at the discretion of the Administrative Law Judge.

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 20160080211 [District's Case].

DATE: September 12, 2016

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Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings