BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CARLSBAD UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016050271 (Primary)
CARLSBAD UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016080484 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On July 15, 2016, Student filed with the Office of Administrative Hearings a second amended Request for Due Process Hearing in OAH Case number 2016050271 (Student's Case), naming Carlsbad Unified School District.

On August 11, 2016, District filed a Request for Due Process Hearing in OAH Case number 2016080484 (District's Case), naming Student.

On August 11, 2016, District filed a Motion to Consolidate District's Case with Student's Case, and to continue the due process hearing date set in Case number 2016050271 (Student's Case) to the hearing date set in Case number 2016080484 (District's Case).

On August 12, 2016, Student filed an objection to consolidation on the grounds that District's complaint is vague, that District's issue is not ripe, and that District's complaint delays Student's education. Student also requested additional time to amend his objection to District's motion. During the August 12, 2016 telephonic prehearing conference, the Administrative Law Judge deferred ruling on District's motion to allow Student additional time to amend his objection. Student did not subsequently file any amendment to his objection to District's motion.

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].)

Here, District's Case and Student's Case involve a common question of law or fact, specifically, whether District's September 22, 2015 individualized education program offered Student a free appropriate public education.[1] In addition, consolidation furthers the interests of judicial economy because the issues will involve common documents and witnesses. Accordingly, consolidation is granted.

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).)

Given that consolidation of the cases will promote judicial economy and preserve the resources of the parties, and given that District has requested a short continuance, there is good cause to continue Student's Case.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case number 2016050271 (Student's Case) are vacated.
3. District's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on September 2, 2016, at 1:00 p.m. and the Due Process Hearing in the consolidated cases shall be held on September 7 and 8, 2016, at 9:30 a.m. on the first day, at 9:00 a.m. on the second day, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

[1] The August 15, 2016 prehearing conference order states that District may renew its May 23, 2016 motion to dismiss Student's Case on the ground that some or all of issues are barred by the parties' January 28, 2016 settlement agreement regarding OAH Case numbers 2015110268 and 2015110488. To date, District has not renewed its motion.

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 2016050271 (Student's Case).

IT IS SO ORDERED.

DATE: August 19, 2016

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Caroline Zuk
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CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings