BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. YUCAIPA-CALIMESA JOINT UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016031168 (Primary)
PARENT ON BEHALF OF STUDENT, v. YUCAIPA-CALIMESA JOINT UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015080292 ORDER FOLLOWING PREHEARING CONFERENCE; ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On April 1, 2016, a telephonic prehearing conference in OAH Case No. 2015080292 was held before Administrative Law Judge Caroline Zuk, Office of Administrative Hearings. Deborah R.G. Cesario, Attorney at Law, appeared on behalf of Yucaipa-Calimesa Joint Unified School District. Peter Attwood, Advocate, appeared on behalf of Student. The PHC was recorded

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

On August 3, 2015, Student filed with OAH a Request for Due Process Hearing in OAH case number 2015080292 (Student's First Case), naming Yucaipa-Calimesa Joint Unified School District.

On September 11, 2015, Student filed an amended complaint.

On December 11, 2015, Student filed a second amended complaint.

On March 21, 2016, Student filed a second Request for Due Process Hearing in OAH case number 2016031168 (Student's Second Case), naming District.

On March 28, 2016, District filed a Motion to Consolidate Student's First Case with Student's Second Case. During the April 1, 2016 prehearing conference in Student's First

Case, District requested a continuance of the due process hearing date set in Student's Second Case.

On March 30, 2016, Student filed an objection to consolidation on the ground that Student's First Case involves the 2013-2014 and 2014-2015 school years, and Student's Second Case involves different facts and law relating to the 2015-2016 school year.

C*onsolidation*

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, Student's First Case and Second Case involve a common question of law or fact, specifically, whether District complied with its procedural obligations to timely convene IEP team meetings to offer Student a FAPE at the beginning of the 2013-2014 school year, and in the spring of 2015. Student's Second Case notes the common factual background across the 2013-2014, 2014-2015, and 2015-2016 schools years as to District's alleged procedural violations in convening IEP team meetings. In addition, consolidation furthers the interests of judicial economy, because Student's First Case and Second Case both involve issues relating to the 2014-2015 school year, and it would be inefficient for the parties and OAH to convene two different hearings for the same school year. 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).)

District's unopposed motion to continue the hearing demonstrates good cause for a continuance, based on the parties' joint request to participate in mediation for the consolidated matter, and District's attorney's calendar conflict.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in Student's First Case are vacated.

3. District's Motion to Continue is granted. The Mediation in the above-captioned case shall be held on April 26, 2016 at 9:30 a.m. The Prehearing Conference in the consolidated cases shall be held on May 13, 2016 at 10:00 a.m. and the Due Process Hearing in the consolidated cases shall be held on May 24 through May 26, 2016, at 9:30 a.m. on the first day, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.[1]
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 2016031168 (Student's Second Case).

DATE: April 04, 2016

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

[1] During the April 1, 2016 prehearing conference, the first day of hearing was set for Monday, May 23, 2016 at 1:30 p.m. However, the May 23, 2016 date must be vacated.