BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

BAKERSFIELD CITY SCHOOL DISTRICT,

OAH CASE NUMBER 2019120777

and

BAKERSFIELD CITY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020010042

ORDER GRANTING MOTION TO CONSOLIDATE

On December 18, 2019, Parent on behalf of Student filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2019120777, First Case, naming Bakersfield City School District. First Case contains

expedited and non-expedited issues, and is set for expedited and non-expedited hearings.

On December 31, 2019, Bakersfield filed a request for due process hearing in OAH case number 2020010042, Second Case, naming Student. The sole, non-expedited issue is whether Bakersfield's assessments of Student in November 2019 were appropriate.

On December 31, 2019, Bakersfield filed a motion to consolidate First Case with Second Case.

Student did not file a response to the motion.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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, the non-expedited issues in First Case and Second Case involve common questions of law or fact, specifically, whether Bakersfield's November 2019 psychoeducational and functional behavior assessments were appropriate, and whether District failed to meet its child find obligation to timely assess Student for special education eligibility, or timely responded to Parent's request for independent educational evaluations. In addition, consolidation furthers the interests of judicial

economy because the same witnesses and evidence will be presented in both cases. Consolidation of non-expedited issues will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately, and avoid the possibility of conflicting results. Accordingly, consolidation is granted.

As to Student's expedited issue, Issue 2, alleging that Bakersfield improperly found disciplinary incidents not to be caused by or related to Student's disability, that issue only will proceed to an expedited hearing.

ORDER

1. Bakersfield's motion to consolidate is granted.
2. First Case is designated as the primary case. All dates previously set in Second Case, OAH case number 2020010042, are vacated.
3. The expedited prehearing conference, or PHC, will be held on January 17, 2020, at 1:00 PM. The expedited due process hearing on Student's expedited issue will be held on January 28, 2020 through January 30, 2020, at 9:30 AM on the first day, and at 9:00 AM on all other days.
4. The non-expedited PHC on the consolidated issues will be held on February 3, 2020 at 1:00 PM. The consolidated non-expedited hearing shall be heard on February 11, 2020 through February 13, 2020, at 9:30 AM on the first day, and 9:00 AM on all other days.

5. The expedited timeline for issuance of the decision in the expedited case and the 45-day timeline for issuance of the decision in the consolidated non-expedited cases shall be based on the date of the filing of the complaint in Primary Case, OAH case number 2019120777.

IT IS SO ORDERED.

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Alexa Hohensee
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DATED: January 8, 2020

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings