BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: TUSTIN UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013040960 OAH CASE NO. 2013090162 (PRIMARY) ORDER FOLLOWING PRE-HEARING CONFERENCE OF SEPTEMBER 6, 2013; GRANTING CONSOLIDATION OF OAH CASES; RESETTING MEDIATION, PREHEARING CONFERENCE AND DUE PROCESS HEARING

On September 6, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Paul H. Kamoroff, Office of Administrative Hearings (OAH). Karen Van Dyke, Attorney at Law, appeared on behalf of the Tustin Unified School District (District). Richard M. Peterson, Attorney at Law, appeared on behalf of Parents on behalf of Student (Student). The PHC was recorded.

PROCEDURAL HISTORY

On May 23, 2013, the District filed a Due Process Hearing Request, naming the Student. This case was designated OAH Case Number 2013040960 (First Case). On September 6, 2013, the Student filed a Due Process Hearing Request, naming the District. This case was designated OAH Case Number 2013090162 (Second Case). Also on September 6, 2013, Student filed a motion to consolidate the First Case and the Second Case, and to continue the hearing dates set for the First Case. During the PHC held on September 6, 2013, the District opposed Student's motions.

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].)

DISCUSSION

In the First Case the District asserts two issues. First, the District asserts that the offer contained in Student's triennial individualized education program (IEP) of October 30, 2012, November 29, December 6 and 14, 2012, January 23 and March 11, 2013, including the goals, accommodations, modifications, placement, related services, and transition portion, constitute a free appropriate public education (FAPE) for Student. Second, the District asserts that Student's Triennial Assessment was conducted pursuant to all legal requirements.

In the Second Case, the Student alleges six issues. Student's issues one and six are identical to the District's issues one and two. Student's remaining four issues relate tangentially to the District's issue one. Consequently, the First Case and the Second Case encompass identical issues. In addition, during the PHC, although the District objected to consolidation, it agreed that the First Case and the Second Case involve similar witnesses.

Accordingly, the undersigned ALJ hereby grants the Student's request to consolidate the First Case and the Second Case. By permitting the consolidation of the First Case and the Second Case, all issues can be litigated in a single forum which will result in judicial economy.

Consolidation of the First Case and the Second Case will reset the hearing dates for the First Case. Therefore, Student's request to continue the First Case is denied as moot.

ORDER

1. OAH Case Number 2013040960 (First Case) and OAH Case Number 2013090162 (Second Case) are consolidated. The consolidated cases shall now be heard on the dates set for the Second Case, unless otherwise ordered.

2. All dates previously set in OAH Case Number 2013040960, the First Case, are vacated.

IT IS SO ORDERED.

Dated: September 9, 2013

/s/
PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings