BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: GARDEN GROVE UNIFIED SCHOOL DISTRICT , v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018090236
PARENT ON BEHALF OF STUDENT, v. GARDEN GROVE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018080781 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On August 21, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018080781 (Student's Case), naming Garden Grove Unified School District.

On September 7, 2018, Garden Grove filed a Request for Due Process Hearing in OAH case number 2018090236, naming Student.

On September 7, 2018, Garden Grove filed a Motion to Consolidate its case with Student's Case. On September 10, 2018, Student filed a response to Garden Grove's consolidation request that did not object to the request, provided that the hearing could commence on October 10, 2018.

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, Student's and Garden Grove's Cases involve a common question of law or fact, specifically, as to the adequacy of Garden Grove's 2018 triennial assessment and the subsequent individualized educational program. Student does not oppose the motion, and consolidation furthers the interests of judicial economy because the overlapping witnesses and factual and legal issues to be adjudicated in both cases. 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).)

Student's motion to continue the hearing demonstrates good cause for a continuance, based on the availability of both parties to proceed to hearing on agreeable dates.

ORDER

1. Garden Grove's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2018080781, Student's Case, and OAH Case Number 2018090236, Garden Grove's Case, are vacated.
3. Student's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on September 28, 2018, at 3:00 p.m. and the Due Process Hearing in the consolidated cases shall be held on October 10, 11 and 16, at 9:30 a.m. on the first day, 9:00 a.m. on all other days, and continuing day to day, as needed 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 2018090236, Garden Grove's Case, which is designated the primary case.

IT IS SO ORDERED.

DATE: September 11, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings