BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. DEHESA ELEMENTARY SCHOOL DISTRICT AND COMMUNITY MONTESSORI CHARTER SCHOOL,	OAH Case Nos. 2016030188 and 2016070924
DEHESA ELEMENTARY SCHOOL DISTRICT AND COMMUNITY MONTESSORI CHARTER SCHOOL, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2016050107 ORDER GRANTING STUDENT'S MOTION TO CONSOLIDATE

Student filed a request for due process hearing (complaint) on February 29, 2016, in Case Number 2016030188 naming the Dehesa Elementary School District and the Community Montessori Charter School (Districts). His complaint raises three issues. Student first alleges that Districts unilaterally changed his placement. Student's second issue alleges that Districts' offer of placement in other than general education with sufficient supports denied him a free appropriate public education. Lastly, Student alleges that Districts have prevented Parents from meaningfully participating in Student's IEP process in several specified ways.

Districts filed a complaint on April 26, 2016, in Case Number 2016050107. The complaint raised three issues. Districts' third issue was dismissed by the Office of Administrative Hearings on May 18, 2016. Districts withdrew their second issue without prejudice on May 31, 2016. Districts' remaining issue is whether its January 2016 individualized education program as amended offers Student a free appropriate public education in the least restrictive environment.

OAH granted Districts' motion to consolidate their case with that of Student in the Order Following the Prehearing Conference of May 16, 2016. On July 13, 2016, OAH granted a third continuance in the case, setting the prehearing conference on October 3, 2016,

at 1:00 p.m. and the due process hearing for October 11 through 13, 2016. OAH stated that no further continuances would be contemplated.

Student filed a second complaint on July 15, 2016, in Case Number 2016070924. Student contends that Districts have denied him a FAPE by failing to provide him with extended school year programming and services. Concurrently with his second complaint, Student filed a motion to consolidate the second complaint with the previously consolidated cases. Districts filed a non-opposition to Student's motion on July 20, 2016. The prehearing conference in Student's second case is presently scheduled for August 29, 2016. The due process hearing in Student's second case is presently scheduled for September 7, 2016.

APPLICABLE LAW AND DISCUSSION

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 second case alleges that District's offer of FAPE is deficient because it failed to include extended school year programming and services. This allegation is directly related to Districts' offers of FAPE, which are at issue in both Student's first case and Districts' case. All three cases will involve similar witnesses and will address similar issues of fact and law. Consolidating the cases therefore furthers the interests of judicial economy. Further, Districts do not oppose the motion. For these reasons, Student's motion to consolidate is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2016070924, Student's second case, are vacated.
3. Student's first case, OAH Case Number 2016030188, is designated the primary case in this matter. 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 that case, as continued in the order dated July 13, 2016.

4. The prehearing conference for these three consolidated matters shall be held on October 3, 2016, at 1:00 p.m., and the due processing hearing shall be held starting October 11, 2016, as scheduled in the July 13, 2016 order granting the parties' joint motion to continue.

5. Barring extraordinary circumstances, no further motions to amend, to consolidate, or to continue shall be granted in these cases.

DATE: July 26, 2016

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Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings