BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: DEHESA ELEMENTARY SCHOOL DISTRICT AND COMMUNITY MONTESSORI CHARTER SCHOOL, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016090241
PARENT ON BEHALF OF STUDENT, v. DEHESA ELEMENTARY SCHOOL DISTRICT AND COMMUNITY MONTESSORI CHARTER SCHOOL.	OAH Case No. 2016080384 ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING REQUEST TO KEEP DATES IN STUDENT'S CASE

On July 28, 2016, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016080384, Student's Case, naming Dehesa Elementary School District and Community Montessori Charter School.

On September 7, 2016, Dehesa Elementary School District and Community Montessori Charter School filed a Request for Due Process Hearing in OAH case number 2016090241, Districts' Case, naming Student.

On September 8, 2016, Student filed a Motion to Consolidate Student's Case with Districts' Case and for the consolidated matters to proceed on the dates currently scheduled for Student's case, Prehearing Conference on September 12, 2016, and hearing on September 21, 2016, because the harm to Student if this matter is continued to the dates in Districts' case, which are Prehearing Conference for September 30, 2016, and hearing on October 4, 2016.

Dehesa Elementary School District and Community Montessori Charter School did not file a response, but indicated on September 7, 2016, that they would not be filing a Prehearing Conference Statement in Student's Case because they would be filing their own hearing request and seek to consolidate the matters. This implies that Dehesa Elementary

School District and Community Montessori Charter School wish that matters be consolidated and to proceed on the dates in their hearing request against Student.

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 Districts' Cases involve a common question of law or fact, specifically, the adequacy of the May 19, 2016 individualized education program, and both parties wish for the matters to be consolidated. In addition, consolidation furthers the interests of judicial economy because of the commonality of legal and factual issues, documentary evidence and witnesses. Accordingly, consolidation is granted.

Keeping Dates in Student's Case

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 wishes to maintain the dates in Student's case because of the harm to Student if there is any delay in this matter proceeding to hearing and Dehesa Elementary School District and Community Montessori Charter School should be ready to proceed to hearing because of the commonality of issues between the cases. However, Student did not establish that 12 day delay between Districts' Case and Student's Case will cause Student significant enough harm. Therefore, matter shall proceed on dates set for Districts' case.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's request that consolidated matter proceed on the dates in Student's Case is denied.
3. All dates previously set in OAH Case Number 2016080384, Student's Case are vacated.

4. The 45-day timeline for the issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2016090241 Districts' Case.

DATE: September 9, 2016

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