

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019040404
v.	
LAGUNA BEACH UNIFIED SCHOOL DISTRICT,	
LAGUNA BEACH UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019031065
v.	ORDER FOLLOWING PREHEARING CONFERENCE; ORDER GRANTING CONSOLIDATION; AND ORDER DENYING MOTION FOR CONTINUANCE AS MOOT
PARENT ON BEHALF OF STUDENT.	

On April 15, 2019, a telephonic prehearing conference was held before Administrative Law Judge Chris Butchko, Office of Administrative Hearings. Parent appeared on behalf of Student. Jennifer Fant, Attorney at Law, appeared on behalf of Laguna Beach Unified School District. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Motion to Consolidate. On April 10, 2019, Laguna Beach filed a motion to consolidate OAH case number 2019031065 (Laguna Beach's case) with OAH case number 2019040404 (Student's case). Student did not file in opposition, and, during discussion at the PHC, Parent stated that she agreed to 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 Case and Laguna Beach's Case involve common questions of law or fact. Both cases concern the February 28, 2019 Individualized Education Program team meeting. Laguna Beach contends that its offer provides a free appropriate public education, which Student's case contends that he is being offered inadequate services for his disability. Both cases concern the same IEP and the same time period, would involve the same likely witnesses, and require similar factual findings for their resolutions. Student agrees to the motion to consolidate. In addition, consolidation furthers the interests of judicial economy by resolving both actions in one hearing, preserving judicial resources and the time of the parties and witnesses. Accordingly, consolidation is granted.

2. Motion for Continuance. On April 10, 2019, Laguna Beach also filed a motion for a continuance and mediation in Laguna Beach's case. Because the dates in Laguna Beach's case will be vacated due to consolidation, the request for a continuance is denied as moot. At the PHC, the parties stated that they were still interested in having a mediation for the consolidated matters, and that both were still available on the date proposed in Laguna Beach's motion. Because that day is a legal holiday, the parties were asked to submit alternate dates. They agreed on Tuesday, May 28, 2019, at 9:30 a.m. Mediation will be granted for that date.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT <https://www.applications.dgsapps.dgs.ca.gov/oah/oahsftweb> .

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

4. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

ORDER

1. Laguna Beach's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2019031065 (Laguna Beach's Case) are vacated. Student's case, OAH case number 2019040404, is designated as the primary matter. All future filings shall be made under that case number. 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 2019040404 (Student's Case).
3. The consolidated case will proceed on the dates as set in OAH Case Number 2019040404 (Student's Case). The prehearing conference will be held on May 24, 2018 at 1:00 p.m. Hearing of this matter will begin on June 4, 2019.
4. Laguna Beach's request for a continuance is denied as moot. Laguna Beach's request for mediation in this matter is granted. Mediation will be held on Tuesday, May 28, 2019, at the Laguna Beach offices at 550 Blumont Street, Laguna Beach, CA 92651. The parties are advised that the mediation is scheduled be held after the date of the prehearing conference.

IT IS SO ORDERED.

DATE: April 15, 2019

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Chris Butchko
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CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings