BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. POWAY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016110437
POWAY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016080268 ORDER GRANTING MOTION TO CONSOLIDATE; GRANTING MOTION TO CONTINUE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On August 1, 2016, Poway Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016080268, naming Parent on behalf of Student. (District's Case).

On October 31, 2016, Student filed a Request for Due Process Hearing in OAH case number 2016110437 (Student's Case), naming District.

On November 14, 2016, District filed a Motion to Consolidate District's Case with Student's Case and to continue the due process hearing dates set in Student's Case and District's Case.

On November 14, 2016, Student filed a non-opposition to District's request for continuance, and submitted an objection to consolidation. Student failed to specify grounds for his objection.

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 District's Case involve a common question of law or fact. Specifically, each case raises the question of whether District offered Student a free appropriate public education during the 2015-2016 school year. In addition, consolidation furthers the interests of judicial economy because similar witnesses and evidence will be presented during both cases, and consolidation prevents inconsistent rulings. 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).)

District's motion to continue the hearing demonstrates good cause for a continuance, based on District's attorney being unavailable during the presently scheduled hearing dates. Student did not oppose the continuance.

ORDER

1. District's Motion to Consolidate is granted.
2. District's Motion to Continue is granted. All dates previously set in OAH case number 2016080268 (District's Case) and in OAH case number 2016110437 (Student's Case) are vacated. The consolidated matter will be reset as follows:

Prehearing Conference:	February 6, 2017, at 1:00 p.m.
Due Process Hearing:	February 14, 15, and 16, 2017, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on the first day, and at 9:00 a.m. on each subsequent day, unless otherwise ordered.

3. 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 2016110437 (Student's Case).

DATE: November 14, 2016

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Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings