BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. DEL MAR UNION SCHOOL DISTRICT,	OAH Case No. 2018020023
DEL MAR UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018070786 ORDER GRANTING UNOPPOSED MOTION TO CONSOLIDATE

On January 30, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018020023 (Student's Case), naming Del Mar Union School District. Student amended the due process hearing request on May 25, 2018.

On July 17, 2018, District filed a Request for Due Process Hearing in OAH case number 2018070786 (District's Case), naming Student.

On the same date, District filed a Motion to Consolidate District's Case with Student's Case. On July 20, 2018, Student filed a statement of Non-Opposition to District's Motion to consolidate.

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, District's Case and Student's Case involve common questions of law or fact, centering upon Student's escalating behavioral issues and the appropriateness of District's responses. District has filed primarily to defend the Individualized Education Program offer of Free Appropriate Public Education made in May 2018. Although Student's complaint covers a time period stretching back to January of 2018, Student's complaint also asserts the inappropriateness of District's May 2018 offer of FAPE. The parties agree that consolidation is proper. No undue delay will be occasioned by granting consolidation, as the parties have agreed that the consolidated cases will proceed on the upcoming dates for hearing in Student's case. Resolving both matters in one proceeding will further the interests of judicial economy. Accordingly, consolidation is GRANTED.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2017070786 (District's Case) are vacated. Student's Case, OAH Care Number 2018020023, is designated as the primary case. All further filings are to be made under that case number.
3. Further proceeding will be held as set forth in the June 13, 2018 Order Granting Continuance and Setting Dates issued in Student's Case. The Prehearing Conference in the consolidated cases shall be held on August 13, 2018, at 10:00 a.m. The Due Process Hearing in the consolidated cases shall be held on August 28-30 and September 4-6, 2018, beginning at 9:30 a.m. on the first day, and at 9:00 a.m. all other days of hearing except for September 4, 2018, which shall commence at 1:30 p.m. Hearing will continue day to day, Tuesday through Thursday, 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 2017020023 (Student's Case).

DATE: July 30, 2018

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Chris Butchko
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CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings