BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017031162
TEHACHAPI UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017020218 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On February 3, 2017, District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2017020218 (District's Case), naming Student. On March 17, 2017, OAH granted the parties' initial joint request to continue the dates in District's Case.

On March 24, 2017, Student filed a Request for Due Process Hearing in OAH Case Number 2017031162 (Student's Case), naming District.

On March 30, 2017, the parties filed a joint Motion to Consolidate District's Case with Student's Case and to continue the mediation, prehearing conference, and due process hearing dates set in Student's Case.

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 and fact. District's Case seeks a ruling that its October 28, 2015 psycho-educational assessment was appropriate such that Student is not entitled to an independent educational evaluation at public expense. Student's Case seeks a ruling that: (1) District failed to appropriately assess Student in all areas of suspected disability as part of the October 28, 2015 psycho-educational assessment, in order to determine what special education and related services were needed to address his individual needs, and (2) District failed to timely file a Request for Due Process Hearing in response to Student's request for an independent educational evaluation. In addition, consolidation furthers the interests of judicial economy because District and Student will likely rely on the same evidence and witnesses to prove their respective cases. 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).)

The parties' joint request to continue the dates in Student's Case (now, the primary matter) demonstrates good cause for a continuance. There have been no prior continuances in Student's Case. Accordingly, the continuance is granted.

The parties requested a mediation date of Friday, May 5, 2017. OAH is currently scheduling a limited number of mediations on Fridays. However, the parties must submit, a separate joint request, in writing, specifically requesting mediation on a Friday.

ORDER

1. The parties' Motion to Consolidate is granted.
2. All dates previously set in District's Case, OAH Case Number 2017020218 are vacated.
3. The parties' Motion to Continue is granted. All dates previously set in Student's Case, OAH Case Number 2017031162 are vacated and set as follows:

Prehearing Conference:	May 12, 2017 at 1:00 PM
Due Process Hearing:	May 23-24, 2017 at 9:30 AM on the first day, and 9:00 AM on each following day, continuing day to day, Monday 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 Student's Case, OAH Case Number 2017031162.

DATE: April 4, 2017

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings