BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. NEWARK UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018110660
NEWARK UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018090129 ORDER GRANTING MOTION TO CONSOLIDATE

On September 6, 2018, Newark Unified School District filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Student. OAH designated the matter as OAH case number 2018090129 (District's Case). On September 19, 2018, Newark filed an Amended Request for Due Process Hearing.

On November 19, 2018, Student filed a Request for Due Process Hearing with OAH, naming Newark. OAH designated the matter as OAH case number 2018110660 (Student's Case). Also on November 19, 2018, Student filed a Motion to Consolidate District's Case with Student's Case, and requested that the due process hearing be set according to the dates OAH scheduled in Student's Case.

On November 21, 2018, Newark filed an opposition to Student's Motion to Consolidate on the grounds that the time period and scope of Student's issues are broader than the single issue in Newark's case. On November 26, 2018, Student filed a reply to Newark's opposition.

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].)

Newark's amended complaint involves one issue: whether it offered Student a free appropriate public education at a March 27, 2018 individualized education program team meeting. Student's complaint involves four issues that date back to November 2016, including allegations that the March 27, 2018 IEP denied Student a FAPE. Newark's argument that consolidation should be denied because there is only "slight overlap" in Student's Case and District's Case, is not persuasive. Both cases involve common questions of law and fact; specifically, whether the March 27, 2018 IEP offered Student a FAPE. For this reason, the parties are likely to rely upon many of the same witnesses and documentary evidence at a due process hearing. As such, convening one due process hearing to resolve both cases furthers the interests of judicial economy by saving time and resources.

Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.

2. Student's Case, OAH case number 2018110660, shall be the primary case in the consolidated matter. All future correspondence shall be filed in Student's Case.

3. All dates previously set in District's Case, OAH case number 2018090129, are vacated. The consolidated matter shall proceed on the dates set in Student's Case.

4. The 45-day timeline for issuance of the decision in the consolidated matter shall be based on the date of the filing of the complaint in Student's Case.

IT IS SO ORDERED.

DATE: November 30, 2018

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings