BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. HUNTINGTON BEACH CITY SCHOOL DISTRICT,	OAH Case No. 2017050956
HUNTINGTON BEACH CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017031054 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION TO CONSOLIDATE

On May 26, 2017, a telephonic prehearing conference was held before Administrative Law Judge Tara Doss, Office of Administrative Hearings. Hiromi Parks, Attorney at Law, appeared on behalf of Student. Ernest Bell, Attorney at Law, appeared on behalf of District. Stacy Wheat, Director of Student Services, also appeared on behalf of District. The PHC was recorded.

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

1. Motion to Consolidate. On March 21, 2017, Huntington Beach City School District filed a Request for Due Process Hearing with OAH in case number 2017031054, naming Student (District's Case). On May 19, 2017, Student filed a Request for Due Process Hearing with OAH in case number 2017050956, naming District (Student's Case).

On May 23, 2017, Student filed a Motion to Consolidate District's Case with Student's Case, on the grounds that the two cases have common questions of law and fact. District did not file an opposition but verbally opposed the motion during the PHC, on the grounds that District does not want to delay the hearing on its issues any further.

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].)

District's Case and Student's Case involve the same parties, and overlapping witnesses and exhibits. Moreover, the two cases involve common questions of law and fact. District's Case involves two issues: (1) Whether the January 31, 2017 multidisciplinary assessments of Student are appropriate, and (2) Whether Student's January 31, 2017 and March 10, 2017 IEPs constitute a FAPE. Student's Case involves six issues: (1) Whether District's psychoeducational assessment was inappropriate; (2) Whether District's academic assessment was inappropriate; (3) Whether District's occupational therapy assessment was inappropriate; (4) Whether District impeded Parent's opportunity to meaningfully participate in the decision-making process by failing to offer a continuum of placements at the January 2017 IEP meeting; (5) Whether the January 2017 IEP offers Student a FAPE; and (6) Whether District denied Student a FAPE during the 2016-2017 school year by failing to implement his Behavior Intervention Plan. Thus, the two cases have overlapping issues and it will further the interests of judicial economy to take evidence on all of the above issues at a single, consolidated hearing.

Furthermore, District's argument that the hearing on District's Case should not be delayed further is not persuasive. The hearing in District's Case is scheduled for June 6-8, 2017 and the hearing in Student's Case is scheduled for July 13, 2017. This short delay is not prejudicial to District's Case, such that it warrants holding two separate hearings approximately one month apart.

Accordingly, Student's Motion to Consolidate District's Case with Student's Case is granted.

ORDER

1. Student's Motion to Consolidate District's Case, OAH case number 2017031054 with Student's Case, OAH case number 2017050956 is granted.

2. Student's Case, OAH case number 2017050956 is designated as the primary case in the consolidated matters, and all future pleadings and other documents in the consolidated matters are to be filed and maintained in that case file.

3. The hearing dates in District's Case are vacated and the matter will proceed on the dates scheduled in Student's Case, pursuant to the Scheduling Order issued on May 22, 2017.

4. The parties shall serve and file PHC statements and exchange final witness lists and exhibits for the consolidated matters in preparation for the PHC scheduled in Student's case.

5. The decision timeline for issuance of the decision in the consolidated matters shall be based on the filing of the Request for Due Process Hearing in Student's Case.

DATE: May 26, 2017

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings