BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. UPLAND UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017080645
UPLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017090290 ORDER GRANTING MOTION TO CONSOLIDATE

On August 11, 2017, Student filed a Request for Due Process Hearing with OAH in case number 2017080645 (Student's Case), naming District. On September 8, 2017, Upland Unified School District filed a Request for Due Process Hearing with OAH in case number 2017090290 (District's Case), naming Student. On September 12, 2017, District filed a Motion to Consolidate Student's and District's cases. On September 18, 2017, Student opposed the consolidation motion.

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].)

Student's Case involved a FAPE offer for the 2015-2016 school year. District's Case involved assessments and a free appropriate public education offer for the 2016-2017 school year. Student was concerned that: the ALJ would be confused as to the appropriate burden of proof to apply to the consolidated cases; the Student's case would be delayed if consolidation were granted; and that consolidation would not result in judicial economy because Student's Case and District Case dealt with two different school years.

OAH frequently hears consolidated cases and would not be confused as to the appropriate burden of proof to be applied to each case. Both cases involve a common

question of law or fact, specifically, the FAPE issues. Although two different school years were involved in each of Student's and District's cases, common witnesses testifying could include Parents as well as District's witnesses. Consolidation furthers the interests of judicial economy because one ALJ will hear both cases, and the same witnesses will need to testify in both cases, even if the documentary evidence may be different. Further, the hearing in Student's Case is set to begin on October 5, 2017, and the hearing in District's Case is set to begin on October 4, 2017, so any delay would be minimal. Accordingly, consolidation is granted.

ORDER

1. District's Motion to Consolidate is granted.

2. All dates previously set in OAH Case Number 2017090290, District's Case, are vacated, as set forth below with the exception of the **Mediation** which will be held on **September 21, 2017, at 9:30 a.m.**

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 2017080645, Student's Case.

4. The prehearing conference, and due process hearing dates will be according to the Scheduling Order in Student's Case which are as follows:

Prehearing conference: September 25, 2017, at 3:00 p.m.
Due process hearing: October 5, 2017, starting at 9:30 a.m. and ending at 5:00 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The mediation and due process hearing will be held at District's office located at 390 N. Euclid Ave., Upland, CA 91786.

5. The primary case shall be Student's Case, and the parties shall use the consolidated caption for all filings after this date.

IT IS SO ORDERED.

DATE: September 18, 2017

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings