BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. BURBANK UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018100167
BURBANK UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019040544 ORDER GRANTING MOTION TO CONSOLIDATE AND SETTING HEARING DATES

On January 16, 2019, OAH deemed filed Student's first amended complaint in OAH case number 2018100167 (Student's Case), naming Burbank Unified School District (Burbank).

On April 11, 2019, Burbank filed a Request for Due Process Hearing in OAH case number 2019040544 (Burbank's Case), naming Student.

On April 15, 2019, the parties filed a Joint Stipulation, which OAH deems a Motion to Consolidate Burbank's Case with Student's Case and to set the consolidated matter for hearing on the dates previously 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, Student's Case and Burbank's Case involve a common question of law or fact, specifically, whether Burbank offered Student a free appropriate public education in the January 10, 2019 individualized education program amendment (Student's Case) and subsequent February 14, 2019 annual IEP (Burbank's Case). Parents, the same Burbank witnesses, and the same Student expert witnesses will be called to testify at both hearing regarding the same set of facts leading up to both IEPs. Having the same witnesses testify in one consolidated hearing furthers the interests of judicial economy, will avoid presentation of duplicative evidence, and potentially contrary rulings. Accordingly, consolidation is granted. Student's case shall be designated the Primary Case.

ORDER

1. The parties' Joint Motion to Consolidate is granted. Student's Case shall be designated as the Primary Case.
2. All dates previously set in OAH Case Number 2019040544 (Burbank's Case) are vacated.
3. The consolidated matter shall be heard as follows:

   Prehearing Conference: May 6, 2019 at 3:00 p.m.

   Hearing: May 14, 2019 at 9:30 a.m., May 15 and 16, 2019 at 9:00 a.m. and continuing day to day at the discretion of the ALJ.
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 first amended complaint in OAH Case Number 2018100167 (Student's Case).

IT IS SO ORDERED.

DATE: April 19, 2019

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COLE DALTON
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Administrative Law Judge
Office of Administrative Hearings