BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>BENICIA UNIFIED SCHOOL DISTRICT; | OAH Case No. 2017040249 |
| BENICIA UNIFIED SCHOOL DISTRICT,<br><br>v.<br><br>PARENT ON BEHALF OF STUDENT. | OAH Case No. 2017050972<br><br>ORDER FOLLOWING PHC AND GRANTING MOTION TO CONSOLIDATE |

On March 22, 2017, a telephonic prehearing conference (PHC) was held in Case No. 2017040249. Tania L. Whiteleather, Attorney at Law, appeared on behalf of Student. Jan E. Tomsky, Attorney at Law, appeared on behalf of the Benicia Unified School District. The conference was recorded.

1. Motion to Consolidate.

On April 4, 2017, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017040249 (Student's Case), naming Benicia.

On May 22, 2017, Benicia filed a Request for Due Process Hearing in OAH case number 2017050972 (District's Case), naming Parent on behalf of Student..

Also on May 22, 2017, Benicia filed a Motion to Consolidate Student's Case with District's Case. At the prehearing conference, Student's counsel represented that Student did not oppose the 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].)

Here, Student's Case and District's Case involve common questions of law and fact, specifically, whether Benicia has denied Student a free appropriate public education in the 2015-2016 and 2016-2017 school years by failure to assess him appropriately and failure to hold an annual IEP team meeting, or whether, as Benicia asserts, Student had enough credits to graduate by the end of the 2014-2015 school year and should be promptly graduated, making claims of more recent denials of FAPE moot. Many of the witnesses who will testify on Benicia's behalf in its case will also testify in Student's case, and many of the documentary exhibits will be the same. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because the issues between the parties may be resolved in a single hearing and decision, and inconsistent rulings may be avoided. Accordingly, consolidation will be granted.

2. All Other Matters Deferred to Subsequent PHC. All other matters pertaining to the PHC in Case No. 2017040249 are deferred until the consolidated PHC to be held in accordance with the new scheduling order OAH will issue in the consolidated cases.

ORDER

1. Benicia's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2017040249 (Student's Case) are vacated.
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 2017050972 (District's Case).
4. OAH will issue a new scheduling order for the consolidated cases.

IT IS SO ORDERED.

DATE: May 25, 2017

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Charles Marson
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CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings