BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT,	OAH Case No. 2016120475
SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016101051 ORDER GRANTING STUDENT'S MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

On October 27, 2016, San Dieguito Union High School District filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2016101051, naming Student (District's Case).

On December 13, 2016, Parents on behalf of Student filed a request for due process hearing in OAH case number 2016120475, naming District (Student's Case).

On December 13, 2016, Student filed a motion to consolidate District's Case with Student's Case, and to continue the due process hearing dates in District's Case. On December 16, 2016, District filed a non-opposition to consolidation.

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 District's Case involve a common question of law or fact, specifically, whether the IEP of September 6, 2016 offered Student a free appropriate public education. In addition, consolidation furthers the interests of judicial economy because the same witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately, and avoid the possibility of conflicting results. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

Student seeks a continuance of the dates in District's Case to enable the parties to mediate and prepare for hearing. However, consolidation of Student's case and District's Case will result in the dates in District's case being vacated, and the parties will have an opportunity to mediate and prepare for hearing in accordance with the dates set in Student's Case.

ORDER

1. Student's motion to consolidate is granted.
2. All dates previously set in OAH case number 2016101051 (District's case) are vacated.
3. The dates currently scheduled in OAH case number 2016120475 (Student's Case) are confirmed. Student's motion to continue is denied.
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 complaint in OAH case number 2016120475 (Student's Case).

DATE: December 19, 2016

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Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings