BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: CARLSBAD UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018030964
PARENT ON BEHALF OF STUDENT, v. CARLSBAD UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018020332 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE PREHEARING CONFERENCE AND HEARING DATES

On February 6, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018020332 (Student's Case), naming Carlsbad Unified School District.

On March 22, 2018, District filed a Request for Due Process Hearing in OAH case number 2018030964 (District's Case), naming Student.

On March 22, 2018, District filed a Motion to Consolidate Student's Case with District's Case and to continue the due process hearing date set in Case Number 2018020332 (Student's Case). Student did not file written opposition to the Motion.

On March 26, 2018, at the prehearing conference in Case Number 2018020332 (Student's Case), District's Motion was argued on the record and Student objected to consolidating or continuing 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 District's Case involve a common question of law or fact, specifically, the legal sufficiency of District's October 16, 2017, individualized educational program offer. In addition, consolidation furthers the interests of judicial economy because of the common witnesses and exhibits relevant to each case. Student does not dispute the common question of law or fact, or the efficiencies of consolidating the two cases, but objects to any delay in Student's case proceeding to hearing. Accordingly, consolidation is granted. District's case is designated the primary case.

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).)

District's motion to continue the hearing demonstrates good cause for a continuance, based on the parties' need to revise and exchange witness and evidence lists to reflect the consolidated cases, the potential unavailability of District's employees during District's spring vacation week, and District's attorney's scheduled family vacation. Additionally, District's attorney's unavailability on April 18, 2018, and Student's father's unavailability on April 24, 2018, necessitates the continuance of the consolidated hearing to dates beginning on April 26, 2018. Student objected to any continuance of the Student's initial hearing dates as prejudicial to Student. However, as Student's case was filed on February 6, 2018, a first continuance of approximately 3 weeks will not be unduly prejudicial to Student. Accordingly, a continuance of the consolidated hearing dates is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2018020332 (Student's Case) are vacated.
3. District's Motion to Continue is granted. The parties shall participate in a Prehearing Conference in the consolidated cases on April 9, 2018, at 1 p.m. OAH will initiate the call. The Due Process Hearing in the consolidated cases shall be held on April 26, 2018, and May 1-2, 2018, at 9:30 a.m. on the first day, and at 9:00 a.m. on the following days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

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 2018030964 (District's Case).

IT IS SO ORDERED.

DATE: March 26, 2018

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Ted Mann
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TED MANN
Administrative Law Judge
Office of Administrative Hearings