BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ANAHEIM UNION HIGH SCHOOL DISTRICT,	OAH Case No. 2019040096
ANAHEIM UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019030675 ORDER GRANTING MOTION TO CONSOLIDATE

On February 28, 2019 Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019021085. On March 18, 2019, Anaheim Union High School District filed a Request for Due Process Hearing in OAH case number 2019030675 (District's Case), naming Student. On March 27, 2019, OAH ordered the two cases consolidated. On April 2, 2019, Student dismissed Case 2019021085, and filed a new Request for Due Process in OAH Case 2019040096 (Student's Case).

On April 10, 2019, Anaheim Union filed a Motion to Consolidate District's Case with Student's Case. On April 15, 2019, Student filed an objection to consolidation on the ground that Anaheim Union's case includes only two issues, while Student's Case includes eight issues; and that the issues in Anaheim Union's case may be dispositive of all issues and dispose of the need to try Student's Case.

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 and District's Case involve a common question of law or fact. Student filed its original complaint (2019021085) challenging Anaheim Union's offer of a free appropriate public education in its individualized education program of December 17, 2018. On March 18, 2019, Anaheim Union filed District's Case, seeking to implement the December 2018 IEP without Parent's consent, and defending the appropriateness of Anaheim Union's assessments.

Student's re-filed complaint in 2019040096 is virtually identical to Student's prior complaint other than adding issues Seven and Eight. Student's complaint alleges that Student disagrees with Anaheim Union's assessments, and further disagrees that the implementation of the Anaheim Union IEP delivers a FAPE. The Student's requested resolutions including obtaining copies of all IEP's, parental participation in placement of Student, provision of services Student is entitled to and to conduct a "valid IEP meeting". All of these issues dovetail into the District's case, which seeks to defend Anaheim Union's assessments and the proposed IEP.

Consolidation also furthers the interests of judicial economy because it is highly likely that the same witnesses and documentary evidence will be used in both the District's Case and Student's Case. Student's argument that the disposition of District's case will result in making Student's case moot supports granting the motion, in that judicial convenience and expedience of resolution weighs in favor of consolidation.

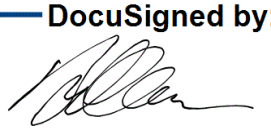
Accordingly, consolidation is granted. Student's case is primary.

ORDER

1. District's s Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2019030675 (District's Case) are vacated. The consolidated matter will be set for hearing on the dates in the Scheduling Order issued in OAH Case Number 2019040096 (Student's Case), unless otherwise ordered.
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 2019040096 (Student's Case).

IT IS SO ORDERED.

DATE: April 15, 2019

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BRIAN H. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings