BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matter of: SAN MARCOS UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018100028
PARENT ON BEHALF OF STUDENT, v. SAN MARCOS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018080080 ORDER GRANTING MOTION TO CONSOLIDATE

On August 2, 2018, Student filed a due process hearing request in this matter with Office of Administrative Hearings, in case number 2018080080 (Student's Case) naming the San Marcos Unified School. On September 28, 2018, San Marcos filed a due process hearing request with OAH in case number 2018100028 (San Marcos' Case), naming Student. On September 28, 2018, San Marcos also filed a motion to consolidate Student's and San Marcos' cases. On October 4, 2018, Student filed a response that did not oppose San Marcos' consolidation motion. Neither party discussed whether they wished to keep the previously continued dates in Student's Case, or the later dates in San Marcos' 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].)

Student's Case involved whether San Marcos offered Student a free appropriate public education from August 1, 2016 to August 2, 2018. San Marcos' Case involved whether the December 5, 2017 individualized education program, as modified on March 15, 2018, March 23, 2018 and June 13, 2018 offered Student a FAPE and requested that OAH order San Marcos to implement such IEP without parental consent. Because both cases

involve an overlapping time period, testimony would involve common witnesses testifying such as Parents as well as some of San Marcos' witnesses, and common documentary evidence at least with respect to the overlapping period. Consolidation furthers the interests of judicial economy because one ALJ will hear both cases involving similar documentary evidence and some of the same witnesses. Accordingly, consolidation is granted.

ORDER

1. San Marcos' motion to consolidate is granted.

2. All dates previously set in OAH Case Number 2018080080, 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 2018100028, San Marcos' Case.

4. The prehearing conference, and due process hearing dates will be according to the San Marcos' Case which are as follows:

Prehearing conference: October 15, 2018, at 10:00 a.m.

Due process hearing: October 23, and October 24, 2018 continuing day to day, Monday through Thursday, at the discretion of the ALJ. The hearing shall take place at San Marcos located at 225 Pico, Avenue, Suite 250, San Marcos, CA 92069. The hearing shall begin at 9:30 a.m. and end at 5:00 p.m. on the first day of the hearing and shall begin at 9:00 a.m. all other days, and end at 4:30 p.m., unless otherwise ordered. The hearing shall continue day to day thereafter, Monday through Thursday, at the discretion of the ALJ.

5. The primary case shall be San Marcos' Case, and the parties shall use the consolidated caption for all filings after this date.

IT IS SO ORDERED.

DATE: October 5, 2018

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings