BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. IRVINE UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018080938
IRVINE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018080860 ORDER GRANTING MOTION TO AMEND COMPLAINT AND GRANTING MOTION TO CONSOLIDATE

On August 22, 2018, Irvine Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018080860 (Irvine's Case), naming Student.

On August 23, 2018, Student filed a Request for Due Process Hearing in OAH case number 2018080938 (Student's Case), naming Irvine.

On August 31, 2018, Student filed a Motion to Amend the Due Process Hearing Request (Student's amended complaint). Irvine did not respond.

On September 5, 2018, Irvine filed a Motion to Consolidate Irvine's Case with Student's Case. Student does not object to the motion.

Amend

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student's motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order.

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 Irvine's Case involve a common question of law or fact, specifically, the appropriateness of Irvine's offer of a free appropriate public education in Student's June 2018 individualized education program. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because many of the same witnesses would testify at both hearings and much of the same evidence would be presented. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Amend is granted.
2. Irvine's Motion to Consolidate is granted.
3. All dates previously set in OAH Case Number 2018080860, Irvine's Case, are vacated.
4. All dates previously set in OAH Case Number 2018080938, Student's Case, are vacated and all applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates
5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the amended complaint in OAH Case Number 2018080938, Student's Case.

DATE: September 6, 2018

DocuSigned by:
Linda Johnson
5092A92341544B9...

LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings