BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. EL SEGUNDO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018110157
EL SEGUNDO UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018121032 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION TO CONSOLIDATE

On January 14, 2019, a telephonic prehearing conference was held before Administrative Law Judge Kara Hatfield, Office of Administrative Hearings. Devan Brothers, Attorney at Law, appeared on behalf of Student. Adam Newman, Attorney at Law, appeared on behalf of El Segundo Unified School District. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Student's Motion to Consolidate. On November 2, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH Case Number 2018110157 (Student's Case), naming El Segundo Unified School District.

On December 28, 2018, El Segundo filed a Request for Due Process Hearing in OAH Case Number 2018121032 (El Segundo's Case), naming Student.

On January 9, 2019, Student filed a Motion to Consolidate El Segundo's Case with Student's Case.

On January 11, 2019, El Segundo filed an objection to consolidation on the ground that the issues in Student's Case and El Segundo's Case are different and El Segundo would be prejudiced by consolidation.

On January 11, 2019, Student filed a reply arguing that the issues in Student's Case and El Segundo's Case substantially overlap and that between Student's Case and

El Segundo's Case, 13 of El Segundo's 15 proposed witnesses are the same for both cases, and 15 of Student's 17 proposed witnesses are the same for both cases.

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, El Segundo's Case and Student's Case involve a common question of law or fact, specifically, Student asserts that El Segundo's alleged failure to assess Student in all areas of suspected disability in fall 2016, one of the claims in Student's Case, is a defense to the issue in El Segundo's Case, namely whether El Segundo has the right to assess Student pursuant to an assessment plan given to Parents in December 2018, which includes the areas of suspected disability for which Student seeks independent educational evaluations as a remedy in Student's Case. Accordingly, consolidation is granted.

Student's Motion to Consolidate is granted. All dates previously set in OAH Case Number 2018121032 (El Segundo's Case) are vacated. 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 2018110157 (Student's Case), which shall be designated as the primary case.

2. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY **EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO OAH AT** https://www.applications.dgs.ca.gov/oah/oahsftweb.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement as noted above, the parties shall submit a request for a status conference and provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

3. Failure to Comply. The failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: January 14, 2019

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Kara Hatfield
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KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings