BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SOLEDAD UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016070938
SOLEDAD UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016070115 ORDER FOLLOWING PREHEARING CONFERENCE; GRANTING MOTION FOR CONSOLIDATION

On September 9, 2016, a telephonic prehearing conference was held before Administrative Law Judge Dena Coggins, Office of Administrative Hearings. Anthony Miranda, Director of Special Education, appeared on behalf of Soledad Unified School District. Lori Morones, Coordinator of Special Education, also appeared on behalf of Soledad. Parent appeared on behalf of Student. The PHC was recorded.

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

1. Motion for Consolidation. On June 30, 2016, Soledad filed a Request for Due Process Hearing, naming Student as respondent, in Office of Administrative Hearings case number 2016070115 (District's Case). On July 15, 2016, Student filed a Request for Due Process, naming Soledad as respondent, in OAH case number 2016070938 (Student's Case). During the PHC, Soledad made an oral motion to consolidate District's Case with Student's Case. Parent joined in the motion.

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, District's Case and Student's Case involve common questions of law and fact. District's Case raises an issue of whether the May 24, 2016 individualized education program offered Student a free appropriate public education in the least restrictive environment. Student's Case raises an issue involving the District's offer of FAPE in or about June 2016.[1] The issues in both matters relate to the same time period, the same parties, and involve common questions of law and fact. Additionally, consolidation furthers the interests of judicial economy because the matters will involve many of the same witnesses and evidence. Accordingly, consolidation is granted.

Upon consolidation, OAH must determine the case that will be considered the primary case for the purposes of calculating the applicable timelines. Student's Case, OAH Case No. 2016070938 will be considered 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 **FAX THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT THE FAXINATION LINE at 916-376-6319.**

ORDER

1. The parties' Motion to Consolidate is granted.
2. Student's Case, OAH Case No. 2016070938 will be designated as the primary case for determining the applicable timelines.
3. All dates currently set in District's Case, OAH Case No. 2016070115, will be vacated. The matter will proceed on the dates set forth in Student's Case, OAH Case No. 2016070938 as follows:

[1] During the PHC, Soledad represented that the FAPE offer at issue in both matters occurred in May 2016, as there was no IEP team meeting in June 2015. Parent recalls the IEP team meeting occurring in June 2016.

Mediation:	September 20, 2016, at 9:30 a.m.
Prehearing Conference:	October 3, 2016, at 1:00 p.m.[2]
Due Process Hearing:	October 18 and October 19, 2016, at 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: September 12, 2016

DocuSigned by:

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DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings

[2] The start time for the PHC has changed from the time set in the August 29, 2016 order following prehearing conference in Student's Case.