BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017010400
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016100847 ORDER FOLLOWING PREHEARING CONFERENCE AND GRANTING MOTION FOR CONSOLIDATION AND CONTINUANCE

On January 18, 2017, a telephonic prehearing conference was held before Administrative Law Judge Alexa J. Hohensee, Office of Administrative Hearings in OAH Case Number 2016100847. ALJ Hohensee disclosed that she was assigned to this matter for the PHC only.[1] Ernest Bell, Attorney at Law, appeared on behalf of Capistrano Unified School District. Student's mother appeared on behalf of Student. The PHC was recorded.

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

1. Consolidation and Continuance. During the PHC in OAH case number 2016100847, filed by District against Student (District's Case), Mother stated that she had retained an advocate to represent Student, and that the advocate had filed a separate due process hearing request (complaint) against District earlier that morning, on January 18, 2017, OAH case number 2017010400 (Student's Case). Parent made an oral motion to consolidate Student's Case with District's Case and continue both matters, to which District objected, and both parties were given an opportunity to argue the merits. The ALJ retrieved and reviewed the complaint in Student's Case, which involved a common question of law or fact with District's Case, specifically, whether District had appropriately assessed Student. In addition, consolidation furthers the interests of judicial economy because the same

[1] Matter is assigned to ALJ Christine Arden.

witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately, and avoid the possibility of conflicting results. Accordingly, consolidation is granted.

2. Continuance. A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).) This is the first request for a continuance in Student's case, and the consolidation results in a significant and unanticipated change in the case as a result of which the cases were not ready for hearing. Accordingly, Student's motion to continue the consolidated cases was granted. All dates in Student's Case and District's Case are vacated, and the dates in the consolidated matters are as set forth below.

3. Hearing Dates, Times, and Location. The hearing in these consolidated matters shall take place on February 22-23, and continuing day to day, Monday through Thursday, at the discretion of the ALJ. The hearing shall take place at the District's offices located at 33122 Valle Road, San Juan Capistrano, California 92675. The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. all other days, unless otherwise ordered.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness was not properly notified of the hearing date or properly subpoenaed, as applicable.

4. Continued PHC and Re-Set Mediation. The telephonic PHC in these consolidated matters is continued to 1:00 p.m. on February 13, 2017. OAH will initiate the conference call. The mediation of these consolidated matters will take place on January 31, 2017, at 9:30 a.m. at District's offices located at 33122 Valle Road, San Juan Capistrano, California 92675.

5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's Case, OAH case number 2017010400.

6. 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.

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.

7. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: January 20, 2017

DocuSigned by:
Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings