BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOWELL JOINT SCHOOL DISTRICT,	OAH Case No. 2014120956
LOWELL JOINT SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015031246 ORDER GRANTING DISTRICT'S MOTION TO CONSOLIDATE

On December 16, 2014, Student filed a request for Due Process Hearing naming Student in OAH case number 2014120956 naming Lowell Joint Union School District (Student's Case). Student contended that Student was a five year-old kindergarten Student, eligible for special education based on hearing loss, and attending school in a District general education class. Student contended that District denied Student a free appropriate public education by: (i) failing to conduct agreed-upon psychoeducational, academic, health, social/emotional/adaptive behavior, language/speech/communication development, audiological and auditory-verbal therapy assessments by May 1, 2014 and convene an individualized education program meeting for Student by May 31, 2014; and (ii) by failing at Student's IEPs held on August 12 and 27, 2014, to (a) offer Student audio-visual therapy; (b) offer Student resource specialist program consultation and monitoring to prevent Student from developing academic deficits; and (c) by failing to develop appropriate goals for Student in the areas of self-advocacy, speaking, language and listening.

On March 24, 2015, District filed: (i) a request for due process hearing naming Student in OAH case number 2015031246 (District's Case); and (ii) a motion to consolidate Student's Case with District's Case. District's complaint contended that Parents on September 10, 2014 consented to the implementation of Student's August 27, 2014 IEP, except that Parents disagreed with District's offer of 30-minutes of speech and language services weekly in small-group pull-out sessions, 50 times per year, and District's failure to offer Student audio-visual therapy. District seek a determination that its August 27, 2014 IEP, including speech and language services described in District's complaint, offered

Student a FAPE in the least restrictive environment appropriate for Student, such that District could implement the entire IEP without Parents' consent.

Student did not respond to District's Motion to Consolidate.

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].)

District has requested that District's Case and Student's Case be consolidated. The matters involve the same parties and common questions of law or fact. Student's issue of whether District's failure to offer Student audio-visual therapy denied Student a FAPE involves the same facts and law relevant to District's claim that District's alternative to audio-visual therapy – an offer of pull-out speech and language services – was appropriate, such that it's August 27, 2014 IEP offered Student a FAPE. District and Student presumably will rely on many of the same witnesses and documents to support their respective contentions. Thus, it will further the interests of judicial economy to save time and prevent inconsistent rulings by taking evidence on all of the above issues at a single, consolidated hearing. Also, consolidating the matters will not delay Student's Case, which was set for a prehearing conference on April 13, 2015 and hearing on April 20 – 23, 2015, because District's Case was also set for a PHC on April 13, 2015, and was set for hearing on April 16, 2013, prior to the hearing date for Student's Case. . Accordingly, the request to consolidate the two cases is granted

ORDER

1. District's unopposed motion to consolidate Student's case number 2014120956 with District's case number 2015031246 is granted.

2. Student's case number 2014120956 is designated as the primary case in the consolidated matters, and all future pleadings and other documents in the consolidated matters are to be maintained in that case file.

3. The PHC date and hearing date in District's case are vacated and the matter will proceed on the dates and times in Student's Case. Mediation of District's case shall remain unchanged, so that the dates in the consolidated matters are as follows:

Mediation:

Date:	4/8/2015
Time:	9:30 a.m. to 4:30 p.m.
Place:	Lowell Joint School District 11019 Valley Home Avenue Whittier, CA 90603

Telephonic Prehearing Conference:

Date:	4/13/2015
Time:	1:00 p.m.

Due Process Hearing:

Date:	4/20-23/2015 The hearing shall continue day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.
Time:	1:30 p.m. on April 20, 2015 and 9:00 a.m. each day thereafter.
Place:	Lowell Joint School District 11019 Valley Home Avenue Whittier, CA 90603

4. The decision timeline for issuance of the decision in the consolidated matters shall be based on the December 16, 2014 filing date of Student's complaint in Student's case, and the initial continuance of Student's Case granted on January 8, 2015.

DATE: April 3, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings