BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

RIALTO UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021040831

ORDER DENYING MOTION TO CONSOLIDATE

MAY 18, 2021

On February 24, 2021, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2021020860, called Student's Case, naming Rialto Unified School District. On March 2, 2021, Rialto Unified School District filed a Request for Due Process Hearing in OAH case number 2021030148, called Rialto's First Case, naming Student. On March 12, 2021, OAH consolidated Student's Case with Rialto's First Case.

On April 26, 2021, Rialto filed a second due process hearing request in OAH case number 2021040831, called Rialto's Second Case, naming Student. The due process hearing in Rialto's Second Case commenced on May 18, 2021. On May 18, 2021, prior to the commencement of the due process hearing, Student filed a Motion to

Consolidate Rialto's Second Case with Student's Case and Rialto's First Case. Rialto opposed Student's motion.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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, Rialto's First Case and Student's Case do not involve a common question of law or fact with Rialto's Second Case. Rialto's Second Case is limited to whether or not it may assess Student absent parental consent. In addition, consolidation does not further the interests of judicial economy because Student filed the motion on the first day of hearing in Rialto's Second Case. Student's motion was not timely and appeared to be an attempt to delay the proceedings in Rialto's Second Case.

ORDER

1. Student's Motion to Consolidate is denied.

Linda Johnson

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings