BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023040486

ORDER DENYING MOTION TO CONSOLIDATE

April 25, 2023

On November 30, 2022, Student filed a complaint and requested a due process hearing from OAH which was identified as Case No. 2022120076. The First Complaint contained 14 issues. Student's counsel later withdrew from representation and Student's parent assumed representation of Student's interests.

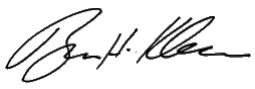
On April 12, 2023, Parent filed the Second Complaint, which contained one issue with multiple subparts regarding the November 2022 Annual Individualized Education Program ("IEP") for Student. The November 15, 2022 IEP was not at issue in Student's First Complaint. In the email submitting the Second Complaint to counsel for the Capistrano Unified, Parent indicated that Student was open to consolidation of the two matters, and the Second Complaint contains a note to the same effect. Capistrano Unified filed a motion to consolidate the two Student filed complaints.

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].)

At the PHC for Case No. 2022120076, the undersigned ALJ tentatively granted the motion to consolidate. However, upon further reflection, if Student wishes to have both issues resolved together the more expeditious procedure would be to have Parent file a motion to amend the complaint in Case No. 2022120076, so there is only one operative complaint and dismiss Student's Case number 2023040486. As such, if the parties want both matters to be heard in one action, Parent may file an amended complaint in Case number 2022120076, along with a motion to amend. At that point, a new case schedule will be reissued. For the foregoing reasons, the Motion to Consolidate is denied.

IT IS SO ORDERED.



Brian Krikorian
Administrative Law Judge
Office of Administrative Hearings