BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

MONROVIA UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2024070979

OAH CASE NUMBER 2024030766

ORDER GRANTING MOTION TO CONSOLIDATE

AUGUST 1, 2024

On March 21, 2024, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2024030766, Student's Case, naming the Monrovia Unified School District.

On July 30, 2024, Monrovia filed a Request for Due Process Hearing in OAH case number 2024070979, District's case, naming Student. On that same day Monrovia filed a motion to consolidate the two matters.

On August 1, 2024, Student filed an opposition to the motion to consolidate on the ground that it was filed too late and too close to the upcoming hearing in his case, which is calendared to begin on August 20, 2024.

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, both cases involve common questions of law and fact. In his case, Student alleges, among other things, that Monrovia denied him a free appropriate public education, called a FAPE, when it declined at a March 15, 2024 individual education program, called IEP, team meeting to consider the results and recommendations of an independent educational assessment by Dr. Helena Johnson. In District's case, Monrovia alleges that the program offered at the March 15, 2004 IEP team meeting would provide Student a FAPE in the least restrictive environment, and that it should be allowed to implement that program should Parents again seek special education from the District.

Student appears to agree that the two cases involve common questions of law and fact, but opposes the motion on the ground that it was filed too late. Anticipating this argument, Monrovia asserts that it only filed its action because on July 29, 2024, it received from Parents a 10-day notice of unilateral action announcing that they had enrolled Student in a private school for the upcoming academic year and would seek reimbursement from the District.

In his opposition, Student asserts that this chronology shows that Monrovia is attempting by its motion to consolidate to delay the upcoming hearing. It also asserts

that Monrovia "has cited no authority or explanation" to explain why a 10-day notice of unilateral placement would require it to file a separate due process complaint. However, Monrovia's motion does provide an explanation by asserting that the 10-day notice included a demand by Parents for reimbursement for the expenses of the private placement for the next school year. It is at least plausible that a district otherwise not motivated to file its own request for due process would change its strategy when newly faced with the prospect of having to pay for a year's worth of tuition and related expenses for a unilateral private school enrollment. Student's opposition does not mention the reimbursement demand.

Monrovia has adequately explained the timing of its motion. In addition, Student does not attempt to establish that any prejudice to his interests would result from granting the motion to consolidate.

As shown above, Student's Case and Monrovia's Case involve common questions of law and fact. In addition, consolidation furthers the interests of judicial economy because the witnesses and documents required for proof in the two matters will substantially overlap. Consolidation will also avoid the prospect of inconsistent judgments. Accordingly, consolidation is granted.

ORDER

1. Monrovia's Motion to Consolidate is granted.
2. Monrovia's Case is designated as the primary case. All dates previously set in Student's Case, OAH case number 2024030766, are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in Monrovia's Case, OAH case number 2024070979. The prehearing conference is

calendared for August 16, 2024, at 10 AM. The due process hearing is calendared for August 27, 28, and 29, 2024.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings