BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENTS ON BEHALF OF STUDENT,

v.

HEALDSBURG UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023030189

OAH CASE NUMBER 2022110029

ORDER GRANTING MOTION TO CONSOLIDATE

MARCH 28, 2023

On October 26, 2023, Healdsburg Unified School District filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2022110029, Healdsburg's First Case, naming Student.

On March 2, 2023, Healdsburg filed a Request for Due Process Hearing in OAH case number 2023030085, Healdsburg's Second Case, naming Student.

On March 6, 2023, Student filed a Request for Due Process Hearing in OAH case number 2023030085, Student's Case, naming Healdsburg.

On March 17, 2023, Student filed a Motion to Consolidate Healdsburg's First Case and Student's Case.

On March 22, 2023, Healdsburg filed an objection to consolidation on several grounds. Healdsburg contended that Student's motion was filed after the Prehearing Conference, called PHC, without a declaration establishing why it was not filed before the PHC as required by the Order Following PHC. Healdsburg also argued that Student did not identify the common questions of law or facts and it is unclear which documents and witnesses may be overlapping. Healdsburg objected to consolidation of only Healdsburg's First Case and Student's case without consolidating Healdsburg's Second Case, because it claimed failure to consolidate all three does not meet the needs of judicial economy and creates the potential for inconsistent rulings. Healdsburg contended that Healdsburg's Second Case addressed the same period at issue and involved the same documents and witnesses as Student's case. Healdsburg did not object to consolidation of all three cases. Lastly, Healdsburg contended that consolidation should be denied because it will extend the date beyond March 28, 2023, the date scheduled for due process hearing for Healdsburg's First Case.

On March 24, 2023, Student filed with OAH a Reply to Opposition to Motion to Consolidate and a Notice of Errata. On March 26, 2023, Student filed a Reply to Opposition to Motion to Consolidate. Student contended that she did not seek to consolidate Healdsburg's Second Case for procedural claims associated with that matter which is not at issue herein as Student did not seek consolidation with Healdsburg's Second Case.

Regarding the failure to timely file this motion, Student's counsel acknowledged the motion to consolidate should have been filed with the complaint, and requested permission to file the motion to consolidate so that judicial economy may be served.

Student argued that her complaint addressed the psychoeducational and mental health assessments that are at issue in Healdsburg's First Case, and asserted the same documents, witnesses, and time period are at issue in Student's Case.

On March 27, 2023, OAH granted Student's request to continue the due process hearing in Healdsburg's First Case because Student's Counsel was unavailable due to being engaged in another due process hearing.

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].)

Student's reply brief satisfactorily explained why she filed the motion to consolidate after the PHC. Student's justification for filing the motion based on her mistaken belief that it was filed on the same date as Student's complaint is sufficient to explain the untimely filing of the motion. Healdsburg was not prejudiced by the untimely motion and had an opportunity to respond. Additionally, Healdsburg's objection to consolidation based upon delay of the due process hearing in the First Case is moot because the hearing was continued due to Student's counsel's unavailability for hearing in Healdsburg's First Case. As a result, Student's Motion to Consolidate is considered on its merits.

Here, Healdsburg's First Case and Student's Case involve a common question of law or fact specifically both matters address whether the psychoeducational assessment dated August 10, 2022, was legally complaint. Additionally, consolidation further the interests of judicial economy because both matters involve common witnesses and evidence. Accordingly, Student's request for consolidation is granted.

Here, Student was the moving party and did not request to consolidate Healdsburg's Second Case. Moreover, OAH does not consolidate multiple cases filed by the same moving party, such as Healdsburg's First and Second Cases. Consolidation of more than two matters is not appropriate when a different vehicle, specifically a Motion to Amend is available. At this juncture, Healdsburg has not filed a Motion to Amend the First Case, seeking to incorporate all of its litigated issues into a single complaint. This Order makes no findings or orders regarding whether Healdsburg may amend the complaint in Healdsburg's First Case. Healdsburg is not prevented from filing additional motions in either its first or second case which will be considered independently on their merits.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Healdsburg's First Case, OAH case number 2022110029, 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 Student's case, OAH case number 2023030189.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings