BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

LONG BEACH UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024080420

ORDER DENYING MOTION TO CONSOLIDATE

NOVEMBER 21, 2024

On August 9, 2024, Long Beach Unified School District filed with the Office of Administrative Hearings, called OAH, a request for due process hearing, called a complaint, in OAH case number 2024080420, naming Student.

On November 13, 2024, ALJ Dalton held the first day of hearing and continued the second and latter days of hearing to December 3, 4, and 5, 2024. Student's counsel, Tania Whiteleather, had filed a motion for continuance on November 8, 2024, in part, because she was engaged in a hearing in OAH case number 2024050848, which also began on November 13, 2024.

On November 15, 2024, Student filed a complaint in OAH case number 2024110578, naming Long Beach.

On November 15, 2024, Student also filed a motion to consolidate the cases.

On November 19, 2024, Long Beach filed an objection to consolidation on the ground that the first day of hearing was held on November 13, 2024 and that Student's issues far exceed the scope of the issue Long Beach brought to hearing.

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, Long Beach seeks a determination on whether it offered Student a free appropriate public education, called a FAPE, in the September 25, 2023 individualized education program, called an IEP, as amended on May 28, 2024. Student seeks a determination regarding whether, during the 2023-2024 and 2024-2025 school years, Long Beach:

- timely and appropriately assessed Student in all areas of suspected disability, specifically regarding vision therapy or visual processing.
- implemented the October 23, 2023 IEP after receiving Parent's consent on January 12, 2024.

Student may show, at hearing, that Long Beach failed to address all of Student's areas of need in the IEP dated September 25, 2023, as amended May 28, 2024. That does not mean that a protracted hearing on the issue of timeliness or appropriateness of assessments are related to a determination of FAPE regarding the IEPs at issue in

Long Beach's complaint. Likewise, implementation of the October 2023 IEP is not related to the determination of whether Long Beach offered a FAPE in a different IEP.

In addition, consolidation does not further the interests of judicial economy under these facts and circumstances. Long Beach's matter has been pending for several months and has been continued twice on Long Beach's motions and once on Student's motion.

Hearing on Long Beach's offer of FAPE will necessarily determine whether Long Beach offered Student a FAPE or whether Long Beach's IEP, or any component thereof, failed to offer a FAPE and requires modification. The sooner such determinations are made, the sooner Student can be offered an appropriate program. While such cases are pending, it is the child who suffers. (See*, I.R. v Los Angeles Unified School District* (9th Cir. 2015) 805 F.3d 1164, 1169-1170.)

Student's motion to consolidate is denied.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings