BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020090906

and

SAN JOSE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020060078

ORDER GRANTING MOTION TO CONSOLIDATE

SEPTEMBER 29, 2020

On June 3, 2020, San Jose filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2020060078, First Case, naming Student.

On September 25, 2020, Student filed a Request for Due Process Hearing in OAH case number 2020090906, Second Case, naming San Jose.

On September 25, 2020, Student filed a Motion to Consolidate First Case with Second Case, and to proceed with the due process hearing dates in the consolidated matter on the dates set in the Second Case, OAH case number 2020090906.

On September 28, 2020, San Jose filed an objection to consolidation on the ground that the two filings were essentially duplicative and should not be consolidated.

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, First Case and Second Case involve a common question of law or fact, specifically, the legal sufficiency of San Jose's functional behavior assessment of Student. Consolidation furthers the interests of judicial economy because of the overlapping witnesses and evidence for hearing in the two cases. Accordingly, consolidation is granted. The dates set in OAH case number 2020060078 will be vacated and the

consolidated matter will proceed on the dates set in OAH case number 2020090906, as the primary case. All prehearing matters will be addressed at the PHC currently scheduled in OAH case number 2020090906 unless otherwise ordered.

ORDER

1. Student's Motion to Consolidate is granted.
2. Second Case is designated as the Primary Case. All dates previously set in First Case, OAH case number 2020060078, 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 Primary Case, OAH case number 2020090906.

IT IS SO ORDERED.

DocuSigned by:
Ted Mann
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Ted Mann

Administrative Law Judge

Office of Administrative Hearings