BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

PANAMA-BUENA VISTA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020090298

and

PANAMA-BUENA VISTA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020070003

ORDER FOLLOWING PREHEARING CONFERENCE

GRANTING REQUEST FOR CONSOLIDATION

SEPTEMBER 14, 2020

On September 14, 2020, Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Dee Anna Hassanpour, Attorney at Law, appeared on behalf of Panama-Buena Vista Union School District, called Panama-Buena. David Grey, Attorney at Law, appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO CONSOLIDATE

On June 26, 2020, Panama-Buena Vista Unified School District, called Panama-Buena filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing, called complaint, in OAH case number 2020070003, Panama-Buena Vista's Case, naming Student.

On September 9, 2020, Student filed a complaint in OAH case number 2020090289, Student's Case, naming Panama-Buena.

On September 9, 2020, Student filed a Motion to Consolidate the two cases. Panama-Buena filed opposition to Student's Motion to Consolidate on September 10, 2020, on the grounds that: (1) Student's complaint added numerous issues with only one overlapping issue and would require additional preparation, witnesses, and evidence; (2) Student's complaint was filed 12 days before the Panama-Buena Vista's due process hearing date, and is a delay tactic and prejudicial; and (3) there is no risk of inconsistent decisions because res judicata and collateral estoppel would prevent relitigating the one overlapping issue in both cases. For these reasons, Panama-Buena argued that consolidation would not further the interests of judicial economy, infringe upon its right to pursue its case without further delay, and should be denied.

On September 11, 2020, Student filed a reply asserting that his due process complaint and motion to consolidate were filed in good faith and would not cause any prejudice to Panama-Buena. Additionally, he argued that it would be an undue consumption of resources if the cases are not consolidated.

On September 14, 2020, the parties had the opportunity to argue the merits of Student's motion to consolidate.

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].)

DISCUSSION

Here, the cases involve a common question of law or fact, specifically, the legal appropriateness of Panama-Buena's February 2020 functional behavior assessment. Although Student's case is more expansive, consolidation furthers the interests of judicial economy because both cases involve the likelihood of the introduction of similar evidence, and some of the same witnesses will be required to testify in each proceeding. Moreover, consolidation will also prevent inconsistent rulings as both hearings are scheduled within six weeks of each other, and a decision may not be rendered in the Panama-Buena Vista's case before Student's case proceeds. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Panama-Buena Vista's case 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 2020090289.

IT IS SO ORDERED.

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Cynthia Fritz
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Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings