BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 201912086

and

NEWPORT-MESA UNIFIED SCHOOL DISTRICT,

v.

STUDENT,

OAH CASE NUMBER 2020050135

ORDER GRANTING MOTION TO CONSOLIDATE

MAY 11, 2020

On December 20, 2019, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019120861, First Case, naming Newport-Mesa Unified School District, referred to as Newport-Mesa. On March 24, 2020, Student filed a Motion to Amend and a proposed amended complaint. On March 26, 2020, OAH issued an order granting Student leave to file an amended complaint. On May 6, 2020, Student filed a Second Motion to Amend and a proposed second amended complaint. On May 6, 2020, Newport-Mesa filed a statement of non-opposition. On May 7, 2020, OAH issued an order granting Student's Second Motion to Amend.

On May 6, 2020, Newport-Mesa filed a Request for Due Process Hearing in OAH case number 2020050135, Second Case, naming Student.

On May 8, 2020, Newport-Mesa filed a Motion to Consolidate First Case with Second Case. Student does not object to the motion.

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 common questions of law or fact, specifically, the issues raised in Student's second amended complaint and Newport-Mesa's complaint concern the appropriateness of Student's May 2019 Triennial Multidisciplinary Assessment. Student's second amended complaint alleges that the

May 2019 Triennial Assessment was not completed in a timely fashion, and that Newport-Mesa failed to develop an appropriate offer of a free appropriate public education, referred to as FAPE based on the results of the May 2019 Triennial Assessment. Student's Second Amended Complaint further alleges that Newport-Mesa failed to offer Student a FAPE for the 2017-2018 and 2018-2019 school years, and that Newport-Mesa failed to complete Student's assessments in a timely manner. Newport-Mesa's complaint seeks a finding that the May 2019 Triennial Assessment was conducted appropriately and in accordance with applicable law.

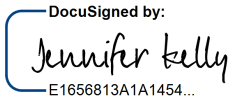
The central issue in both complaints is the validity of the May 2019 Triennial Assessment. Although Student's Second Amended Complaint also seeks a determination that Newport-Mesa failed to offer a FAPE in earlier school years, consolidation furthers the interests of judicial economy because both First Case and Second Case concern the same parties, the validity of Student's educational assessments and the appropriateness of Newport-Mesa's offers of FAPE. Judicial economy will be furthered by consolidating these matters, which will save time and prevent inconsistent rulings. Accordingly, consolidation is granted.

ORDER

1. Newport-Mesa's Motion to Consolidate is granted.
2. First Case, OAH case number 2019120861 is designated as the primary case. All dates previously set in Second Case, OAH case number 2020050135, 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 2019120861.

IT IS SO ORDERED.



Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings