BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND

BEVERLY HILLS UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2022040470

OAH CASE NUMBER 2022020444

ORDER GRANTING MOTION TO CONSOLIDATE

JUNE 10, 2022

On February 10, 2022, Beverly Hills Unified School District, called Beverly Hills, filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2022020444, Beverly Hills's Case, naming Student. On March 28, 2022, OAH granted Student's continuance request, setting the Prehearing Conference to July 11, 2022, and hearing to commence on July 19, 2022.

On April 15, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022040470, Student's Case, naming Beverly Hills. On May 17, 2022, OAH granted the parties' continuance request, setting mediation for July 12, 2022,

Prehearing Conference for August 29, 2022, and hearing to commence on September 7, 2022.

On June 6, 2022, Student filed a Motion to Consolidate the cases and for the consolidated matters to proceed on the dates currently sent in Student's Case.

On June 8, 2022, Beverly Hills filed an objection to consolidation on the ground that consolidation of the two cases will delay resolution of Beverly Hills's Case, and consolidation will not result in judicial economy. On June 9, 2022, Student filed a reply. Student stated that he requires time to seek legal representation as Student's attorney withdrew as attorney of record in both cases.

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, Beverly Hills's Case which involve two distinct issues of whether its transition and occupational therapy assessments were appropriate such that it need not fund independent educational evaluations. Student's Case involve the appropriateness of Beverly Hills's transition and occupational therapy evaluations, and various allegations of FAPE denials in the 2021-2022 school year.

Beverly Hills's makes a compelling argument that resolution of the two distinct issues in its case should not be further delayed, and that consolidation will not further judicial economy as Student's Case involved 20 plus free appropriate public education, called a FAPE, allegations resulting in a long hearing. However, because Student's Case also involves the appropriateness of Beverly Hills's transition and occupational therapy evaluations and various allegations of FAPE denials in the 2021-2022 school year which likely emanated from the results of those assessments, judicial economy would result from hearing both cases together.

Here, both cases involve a common question of law or fact, specifically, the appropriateness of Beverly Hills's transition and occupational therapy evaluations. In addition, consolidation furthers the interests of judicial economy because the same witnesses and exhibits will be presented in both cases. Accordingly, consolidation is granted.

Further, this consolidated matter will proceed on the later dates in Student's Case, which will allow Student time to seek legal representation as Student's attorney withdrew as counsel of record on April 29, 2022. Additional time to retain a new attorney may not be considered good cause to seek a further continuance of the September 7, 2022 hearing dates. No hearing continuances will be granted absent a showing of good cause supported by a declaration under the penalty of perjury.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Beverly Hills's Case, OAH case number 2022020444, are vacated.

3. Matter shall proceed on the dates in Student's Case. Mediation in the above-captioned case shall be held on July 12, 2022 at 9:00 AM, the Prehearing Conference in the consolidated cases shall be held on August 29, 2022, at 3:00 PM, and the Due Process Hearing in the consolidated cases shall be held on September 7, and 8, 2022, beginning at 9:30 AM on all days, continuing day to day as needed at the discretion of the Administrative Law Judge.
4. 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 2022040470.

IT IS SO ORDERED.

Sabrina Kong

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Administrative Law Judge

Office of Administrative Hearings