BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023030660

ORDER DENYING MOTION TO CONSOLIDATE

APRIL 03, 2023

On January 6, 2023, Long Beach Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2023010155, Long Beach's Case, naming Student.

On February 14, 2023, a one-day hearing was held for Long Beach's case. On February 28, 2023, Student filed a motion to vacate the hearing on due process grounds. On March 13, 2023, OAH held a motion hearing by videoconference to allow the parties oral argument on Student's motion. On March 17, 2023, OAH granted Student's motion to re-open the hearing.

On March 20, 2023, Student filed a Request for Due Process Hearing in OAH case number 2023030066, Student's Case, naming Long Beach. On March 20, 2023, Student also filed a Motion to Consolidate the cases.

On March 21, Long Beach filed an opposition to consolidation on the ground that Student's complaint expanded the issues for hearing beyond those permitted in OAH's order re-opening the hearing. On March 23, 2023, Student filed a reply to Long Beach's opposition.

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, Student's complaint seeks to expand the issues for the reopened hearing beyond those relevant to Long Beach's case. Student's complaint raises issues related to Student not being assessed in all areas of disability, a failure to offer extended school year in the individual educational program, called an IEP, a failure to offer Student services for sensory integration in the IEP, the legal sufficiency of Long Beach's speech/language assessment and or a failure to find Student eligible for a specific learning disability or provide related services for a specific learning disability. This is inconsistent with the order granting Student's motion to re-open the hearing of Long

Beach's case. The hearing was reopened only to allow Student to present evidence and witnesses in the District Case that already began on February 14, 2023.

The only issues for the reopened hearing are the legal sufficiency of Long Beach's psychoeducational and occupational therapy assessments and as a consequence whether or not Student is entitled to publicly funded independent educational evaluations in those two areas. Further, as the hearing has already begun, consolidation would be improper. As a result, Student's request to consolidate Long Beach's case and Student's case is denied.

ORDER

1. Student's Motion to Consolidate is denied.

IT IS SO ORDERED.

Ted Mann

Ted Mann
Administrative Law Judge
Office of Administrative Hearings