BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

FREMONT UNION HIGH SCHOOL DISTRICT,

OAH CASE NUMBER 2020020117

and

FREMONT UNION HIGH SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020040778

ORDER GRANTING MOTION TO CONSOLIDATE AND DESIGNATING STUDENT'S CASE AS PRIMARY CASE

APRIL 28, 2020

On February 3, 2020, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2020020117, naming Fremont Union High School District. Student's Case is scheduled for hearing beginning May 12, 2020.

On April 24, 2020, Fremont filed a Request for Due Process Hearing in OAH case number 2020040778, naming Student. Fremont's Case is scheduled for hearing beginning May 19, 2020.

On April 24, 2020, Fremont filed a Motion to Consolidate the two cases. On April 27, 2020, Student filed an objection to consolidation on the grounds that the two cases do not involving a common question of law or fact.

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 Case identifies Fremont's alleged denials of a free appropriate public education during the 2017-2018 through 2019-2020 school years as issues for hearings. Student raises numerous sub-issues including Freemont's failure to assess his fine and gross motor needs; accurately identify his present levels in the area of fine motor; offer appropriate supports and services to address these needs; and offer a

handwriting goal. Student seeks prospective and compensatory occupational therapy services for Fremont's educational programing deficits.

Fremont's sole issue for hearing is whether its March 2020 occupational therapy assessment of Student met all legal standards. While different legal standards governing each case, both cases involve a common question of fact, specifically, Student's needs in the area of occupational therapy. As such, consolidation is warranted. Consolidation will further the interests of judicial economy because both cases involve the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve the introduction of some of the same documents. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timeline shall be controlled by Student's Case, OAH case number 2020020117.

ORDER

1. Fremont's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Fremont's Case, OAH case number 2020040778, are vacated.
3. The consolidate matters shall now proceed on the dates set in Student's Case. The Prehearing Conference in the consolidated cases shall be held on May 4, 2020, at 3:00 p.m., and the Due Process Hearing shall be held on May 12 through 14, 2020, from 9:30 a.m. until 3:30 p.m., 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 Student's Case, OAH case number 2020020117.

IT IS SO ORDERED.



Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings