BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

MORGAN HILL UNIFIED SCHOOL DISTRICT AND CAMPBELL UNION SCHOOL DISTRICT,

OAH CASE NUMBER 2023100744

OAH CASE NUMBER 2023110723

ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

NOVEMBER 30, 2023

On October 20, 2023, the Office of Administrative Hearings, called OAH, received a Request for Due Process Hearing from Student naming Morgan Hill Unified School District and Campbell Union School District, OAH Case Number 2023100744. Student's Case contained expedited claims against Campbell Union, and non-expedited claims against both Campbell Union and Morgan Hill.

The expedited claims proceeded to hearing on November 14 and 15, 2023. The expedited Decision is pending. The non-expedited claims were originally

scheduled for hearing to commence on December 5, 2023. On the record during the November 15, 2023 expedited hearing day, OAH continued the non-expedited matter to the currently scheduled dates, for a prehearing conference to occur on December 11, 2023 at 10:00 AM, and a due process hearing to occur on December 19, 20 and 21, 2023.

On November 22, 2023, Campbell Union filed a Request for Due Process Hearing in OAH case 2023110723, Campbell Union's Case, naming Student. On November 22, 2023, Campbell Union also filed a Motion to Consolidate the cases. On November 28, 2023, Morgan Hill, who is not a party to Campbell Union's Case versus Student, filed a non-opposition to the motion to consolidate. Student did not file a response.

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, both cases involve a common question of law or fact, specifically, Student's non-expedited claims allege that Campbell Union failed in its child-find duties to identify and assess Student for special education and related services, failed to find her eligible and therefore failed to offer her a free appropriate public education. Campbell Union's Case seeks the right to assess Student without Parent's written consent to an assessment plan that Campbell Union generated on September 8, 2023. The cases

involve overlapping issues and evidence. Consolidation furthers the interests of judicial economy. Accordingly, consolidation is granted.

CONTINUANCE

Simultaneously with the motion to consolidate, Campbell Union filed a motion to continue the consolidated cases. Morgan Hill did not oppose. Student did not file a response. The motion is denied without prejudice. Campbell Union requested that Due Process Hearing in the consolidated cases be held on January 2-4, 2023. However January 2 is the day after a holiday and is unavailable to begin a hearing on the OAH calendar. Therefore, the continuance is denied without prejudice to a further stipulation or motion seeking dates that are available.

ORDER

1. Campbell Union's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Campbell Union's Case, OAH case number 2023110723, 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, Student's Case, OAH case number 2023100744.
4. Campbell Union's Motion to Continue is denied. The Prehearing Conference in the consolidated cases shall be held on the dates that are currently scheduled in the primary case, Student's Case. The prehearing

conference will be on December 11, 2023 at 10:00 AM, and the due process hearing on December 19, 20 and 21, 2023, unless otherwise ordered.

IT IS SO ORDERED.

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings