BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

LONG BEACH UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2023070170

OAH CASE NUMBER 2023090624

ORDER GRANTING MOTION TO CONSOLIDATE

OCTOBER 4, 2023

On July 7, 2023, Parent on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a Request for Due Process Hearing in OAH case number 2023070170, called Student's Case, naming Long Beach Unified School District. On August 11, 2023, OAH granted the parties request for a mediation on September 14, 2023, and a continuance of the hearing to October 17 through 19, 2023.

On September 22, 2023, Long Beach Unified filed a Request for Due Process Hearing in OAH case number 2023090624, called District's Case, naming Student. OAH scheduled the hearing for October 17 through 19, 2023.

On September 25, 2023, Long Beach Unified filed a Motion to Consolidate the two cases. On September 27, 2023, Student filed an objection to consolidation on the ground that Long Beach Unified's case was moot.

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. Student's case raises three issues that address Long Beach Unified's failure to provide a free appropriate public education, referred to as FAPE, by not offering an appropriate placement and services, or a complete offer of FAPE for the 2023-2024 school year. Student's complaint concerns an individualized education program, referred to as an IEP, dated June 8, 2023. Long Beach Unified's complaint seeks a determination that the June 8, 2023 IEP offers a FAPE that can be implemented without Parent's consent if Parents want it to provide Student with special education and related services.

Long Beach argues that consolidation is appropriate because both cases involve the same parties and issues, witnesses, and questions of fact. Student does not dispute that there exist common issues of fact. However, Student disagrees that the cases "sufficiently share" common questions of law such that consolidation would be appropriate. Student also argues that between Student's filing on July 7, 2023, and

Long Beach Unified's filing on September 22, 2023, that Student was privately placed for the entire 2023-2024 year, and that Long Beach Unified was given notice of this fact. Therefore, Student argues that whether Long Beach Unified can implement the IEP is moot, and the issue is not ripe for adjudication.

Both cases seek adjudication of the similar issues for the same IEP, namely whether the June 8, 2023 IEP offered Student a FAPE. Student's objections are not an appropriate basis for denying consolidation. The validity of the June 8, 2023 IEP remains at issue for hearing and necessarily involve a determination of the same factual and legal issues, as well as presentation of some of the same testimonial and documentary evidence. Consolidation of the matters will further the interests of judicial economy by saving time or preventing inconsistent rulings. Accordingly, consolidation is granted.

ORDER

1. Long Beach Unified's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in District's Case, OAH case number 2023090624, 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 Student's Case, OAH case number 2023070170.

4. The prehearing conference and the due process hearing in the consolidated matter shall proceed on the dates scheduled in Student's Case.

IT IS SO ORDERED.



Brian H. Krikorian

Administrative Law Judge

Office of Administrative Hearings