

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

MORONGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021070371

OAH CASE NUMBER 2021090710

ORDER GRANTING MOTION TO CONSOLIDATE

SEPTEMBER 30, 2021

On July 13, 2021, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021070371, Student's Case, naming Morongo Unified School District, called Morongo. Student alleged Morongo had not conducted a comprehensive evaluation of Student since 2010, or any assessments since 2016, and contended Morongo denied Student a free appropriate public education by, among other things, failing to complete a behavior assessment of Student, failing to identify all of Student's needs in academics, communication, fine motor, behavior, and orientation and mobility, and failing to offer Student appropriate placement, goals, and services to address his unique needs. On August 2, 2021, OAH granted the parties' joint request to schedule mediation and continue the matter to a

prehearing conference on October 11, 2021, and hearing on October 19 through 21, 2021.

On September 22, 2021, Morongo filed a Request for Due Process Hearing in OAH case number 2021090710, Morongo's Case, naming Student. Morongo alleges Parent has not responded to an assessment plan Morongo provided Parent on September 3, 2021 that proposed to assess Student in the areas of academic achievement, health, intellectual development, language and speech, motor skills, social and emotional behavior, adaptive behavior, post-secondary transition, occupational therapy, functional behavior, and alternative and augmentative communication. Morongo contends the assessment plan is appropriate, and seeks a determination that Morongo is entitled to conduct the proposed assessments without Parent's consent. OAH set Morongo's Case for a prehearing conference on October 18, 2021, and hearing on October 26 and 27, 2021.

Also on September 22, 2021, Morongo filed a Motion to Consolidate Morongo's Case with Student's Case, and to proceed on both cases on the dates set in Student's Case.

Student did not file a response to Morongo's motion to consolidate.

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 and Morongo's Case involve common questions of fact, as Student contends Morongo has failed to identify all of Student's areas of need and provide appropriate placement, goals and services to address those needs, and Morongo contends the assessments it proposed are necessary to identify Student's needs and develop an appropriate independent educational program. Student has not opposed Morongo's motion to consolidate. In addition, consolidation furthers the interests of judicial economy because both cases will require testimony from some of the same witnesses and involve some of the same documentary evidence regarding how to identify and address Student's unique needs. Accordingly, consolidation is granted.

ORDER

1. Morongo's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Morongo's Case, OAH case number 2021090710, are vacated.
3. The consolidated matter shall proceed on the dates set in Student's Case, OAH case number 2021070371. The prehearing conference shall proceed on October 11, 2021 at 10:00 AM, and the due process hearing shall proceed on October 19 through 21, 2021, unless continued for good cause shown, or otherwise ordered.

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 2021070371.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert G. Martin", with a stylized flourish at the end.

Robert G. Martin

Administrative Law Judge

Office of Administrative Hearings