

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENTS ON BEHALF OF STUDENT,

and

CAPISTRANO UNIFIED SCHOOL DISTRICT AND
JOURNEY CHARTER SCHOOL.

OAH CASE NUMBER 2021090153

OAH CASE NUMBER 2021050593

ORDER GRANTING MOTION TO CONSOLIDATE

SEPTEMBER 9, 2021

On May 18, 2021, Capistrano Unified filed a due process hearing request, called a complaint, in OAH case number 2021050593, First Case, naming Student. On September 7, 2021, Parent on behalf of Student filed a complaint in OAH case number 2021090153, Second Case, naming Capistrano Unified and Journey Charter School.

On September 7, 2021, Student filed a motion to consolidate First Case and Second Case. On September 9, 2021, Capistrano Unified and Journey Charter filed a non-opposition to the motion.

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].)

First Case and Second Case involve common questions of law or fact. Specifically, whether Capistrano Unified's March 9, 2021 occupational therapy assessment complied with state and federal law requirements. In addition, consolidation furthers the interests of judicial economy because the same evidence and witnesses will be presented in both cases on the issues as to the appropriateness of the March 9, 2021 occupational therapy assessment and whether Student is entitled to a publicly funded independent occupational therapy evaluation. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. Second Case is designated as the primary case. All dates previously set in First Case, OAH case number 2021050593, are vacated. The consolidated cases shall proceed on the dates currently set in Second Case, OAH case number 2021090153.

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 Second Case, OAH case number 2021090153.
4. As OAH continued this matter on June 2, 2021, for the parties to participate in mediation, which occurred on August 6, 2021, any continuance request must establish good cause by way of declaration.

IT IS SO ORDERED.

Rommel P. Cruz

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Administrative Law Judge

Office of Administrative Hearings