

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

and

MT. DIABLO UNIFIED SCHOOL DISTRICT,
OAH CASE NUMBER 2021090436
OAH CASE NUMBER 2021080274
OAH CASE NUMBER 2021080654

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING MOTION TO CONSOLIDATE

SEPTEMBER 21, 2021

On September 20, 2021, Administrative Law Judge Paul H. Kamoroff, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Blanca C. Vaughan appeared on behalf of Parent and Student.
Attorneys Elizabeth Estes and Christine Huntoon appeared on behalf of Mt. Diablo

Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO CONSOLIDATE

On August 6, 2021, Student filed with OAH a complaint in OAH case number 2021080274, naming Mt. Diablo, Student's First Case. On August 23, 2021, Mt. Diablo filed a complaint with OAH in case number 2021080654, naming Student. On August 27, 2021, OAH granted Mt. Diablo's request to consolidate these matters.

On September 16, 2021, Student filed a second complaint with OAH in OAH case number 2021090436, naming Mt. Diablo, Student's Second Case, instead of amending Student's First Case, the correct process for adding or revising issues to an existing case. Student filed a request to consolidate Student's Second Case with OAH cases 2021080274 and 2021080654 on the same day. During the PHC, Mt. Diablo did not oppose Student's request.

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 Second Case and OAH case numbers 2021080274 and 2021080654 involve a common question of law or fact, including Student's educational placement. In addition, consolidation furthers the interests of judicial economy because

each matter involves identical parties and similar witnesses. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Second Case, OAH case number 2021090436 is designated as the primary case. All dates previously set in OAH case numbers 2021080274 and 2021080654 are vacated.
3. The consolidated matters shall proceed on the dates previously set for hearing in the Primary Student's Second Case, OAH case number 2021090436, including the mediation scheduled for September 29, 2021, unless cancelled by a party.
4. The expedited timeline and expedited hearing dates for OAH case number 2021090436 remain, including the mediation scheduled for September 29, 2021, unless cancelled by a party.
5. For the non-expedited matters, 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, OAH case number 2021090436.

IT IS SO ORDERED.


Paul H. Kamoroff (Sep 21, 2021 10:07 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings