

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

and

SAN DIEGO UNIFIED SCHOOL DISTRICT,
OAH CASE NUMBER 2021100182
OAH CASE NUMBER 2021060539

ORDER GRANTING MOTION TO CONSOLIDATE

OCTOBER 12, 2021

On June 7, 2021, 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 2021060539, referred to as the First Case, naming San Diego Unified School District.

On October 7, 2021, Student filed another Request for Due Process Hearing naming San Diego, which OAH designated case number 2021100182, referred to as the Second Case, and a motion to consolidate the First and Second cases. San Diego does not object to the motion.

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, First Case and Second Case involve a common question of law or fact, specifically, whether the May 14, 2021 IEP offered Student a FAPE. San Diego does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because both cases involve the same witnesses and many similar documents. Accordingly, consolidation is granted.

However, it is noted that the complaint in the First Case has been amended twice, thereby resulting in two continuances of this matter. The Complaint in the Second Case repeats allegations contained in the First Case regarding the May 14, 2021 IEP and is different from the First Case only in that it alleges a deprivation of FAPE for the 2021-2022 school year covered by that IEP. It is further noted that the facts alleged in the Second Case were known to Student at the time Student filed the second amended complaint in the First Case. Finally, it is noted that the Second Case was filed less than two weeks before the prehearing conference scheduled in the First Case. Consequently, there shall be no further continuances granted in this matter, unless any such request for a continuance is accompanied by, and supported by, a detailed declaration showing extraordinary circumstances. Similarly, no further motions to amend or requests to consolidate subsequently filed complaints will be granted in this matter, unless any such

motion is supported by a detailed declaration to support the amendment. This consolidated matter shall take precedent over later filed cases based on the June 7, 2021 filing date in the First Case.

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 2021060539, 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, OAH case number 2021100182.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier

Administrative Law Judge

Office of Administrative Hearings