

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

AND

ORINDA UNION SCHOOL DISTRICT,
OAH CASE NUMBER 2021070616
OAH CASE NUMBER 2021110064

ORDER GRANTING MOTION TO CONSOLIDATE

NOVEMBER 04, 2021

On July 19, 2021, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2021070616, First Case, naming Orinda Union School District. On October 11, 2021, Student filed a motion for leave to file an amended complaint, along with a proposed amended complaint. On October 13, 2021, OAH granted Student's motion for leave to file an amended complaint, which was deemed filed on that date.

On October 29, 2021, Orinda Union School District filed a Request for Due Process Hearing in OAH case 2021110064, Second Case, naming Student.

On October 29, 2021, Orinda Union School District filed a Motion to Consolidate First Case with Second Case, on the ground that both cases have a common issue of fact and law and involve the same parties. In the Motion to Consolidate Orinda Union School District agreed that the hearing on the consolidated matter would proceed on December 7, 2021, through December 9, 2021, the dates scheduled for hearing in the First Case, to which the parties had previously agreed. On November 3, 2021, Student filed a non-opposition to consolidation.

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, issue three in the First Case, and the sole issue in the Second Case, both address the appropriateness of the identical assessments of Student. Student does not oppose the motion the consolidate. In addition, consolidation furthers the interests of judicial economy because the parties in both cases are the same, and one issue in the First Case, and the sole issue in the Second Case, each address the same assessments of Student. Therefore, the same evidence and law will probably apply to at least one issue in both cases. Also, many of the same witnesses will be called to testify in both cases. Accordingly, consolidation is granted.

ORDER

1. Orinda Union School District's Motion to Consolidate is granted.
2. First Case is designated as the Primary Case. All dates previously set in the Second Case, OAH case number 2021110064, are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date the amended complaint in the Primary Case, OAH case number 2021070616, was deemed filed.

IT IS SO ORDERED.

Christine Arden

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Administrative Law Judge

Office of Administrative Hearings