

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
RIVERSIDE UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,
OAH CASE NUMBER 2021110407
OAH CASE NUMBER 2021100120

ORDER GRANTING MOTION TO CONSOLIDATE

NOVEMBER 19, 2021

On October 5, 2021, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings in OAH case number 2021100120, naming Riverside Unified School District as respondent. On November 15, 2021, Riverside filed a request for due process hearing in OAH case number 2021110407 naming Student as respondent; and also filed a motion requesting that the two cases be consolidated. Riverside requested the consolidated matters proceed to hearing on the dates scheduled in Riverside's case; Prehearing conference on November 29, 2021, and hearing commencing December 7, 2021.

Student did not respond to the motion to consolidate. On November 19, 2021, Student filed an "Opposition to Riverside's Motion to Continue." It appears Student interpreted Riverside's request for the consolidated matters to proceed on the dates set in Riverside's case as a motion to continue. OAH does not interpret it as such.

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) Code of Civ. Proc., § 1048, subd. (a).)

Here, Riverside's case and Student's case involve common questions of law or fact. Specifically, Student challenges whether assessments completed met legal standards and Riverside has asked that the assessments be declared legally compliant. The cases would necessarily involve common questions of fact and common witnesses. Consolidation furthers the interests of judicial economy. Good cause having been established, consolidation is granted.

Once consolidation is granted, one case is deemed primary. The dates in that case are set in the consolidated matters. Here Riverside's case is deemed primary to give the parties proper notice. Had the consolidated matters been set on the dates in Student's case, evidence exchange for both matters would have been due today, November 19, 2021, due to the Thanksgiving holiday; thus failing to give either party proper notice for evidence exchange in the expanded, consolidated case. Riverside's motion to consolidate is not a motion to continue.

ORDER

1. Riverside's Motion to Consolidate is granted.
2. Riverside's case, OAH case number 2021110407, is designated as the primary case. All dates previously set in Student's case, OAH case number 2021100120, are vacated, including the 10:00 AM PHC scheduled for November 19, 2021. The consolidated matter shall proceed as scheduled in Riverside's case, OAH case number 2021110407.
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 Riverside's case, OAH case number 2021110407.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings