

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

SAN DIEGO UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021120433

OAH CASE NUMBER 2022010064

ORDER GRANTING MOTION TO CONSOLIDATE

JANUARY 6, 2022

On December 14, 2021, San Diego Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a Request for Due Process Hearing in OAH case number 2021120433, San Diego Unified's Case, naming Student. San Diego Unified's Case was continued for good cause on December 22, 2021.

On January 4, 2022, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2022010064, Student's Case, naming San Diego Unified.

On January 4, 2022, Student moved to consolidate the cases. San Diego Unified filed a non-opposition to the motion to consolidate on January 5, 2022.

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, both cases involve a common question of law or fact, specifically, whether San Diego Unified offered Student a free appropriate public education, called FAPE, in the least restrictive environment during the 2021-2022 school year. Student's Case contends San Diego Unified failed to offer Student a FAPE during the 2021-2022 school year, by failing to offer Student an educational program through distance learning.

San Diego Unified's Case contends the October 11, 2021 individualized education program, called IEP, offered Student a FAPE in the least restrictive environment. San Diego Unified argues that the October 11, 2021 IEP's offer for in-person instruction was appropriate.

San Diego Unified does not oppose Student's motion to consolidate the cases. In addition, consolidation furthers the interests of judicial economy because the same evidence and witnesses will be presented in both cases on the issue of whether San Diego Unified offered Student a FAPE for the 2021-2022 school year. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. San Diego Unified's Case is designated as the primary case. All dates previously set in Student's Case, OAH case number 2022010064, 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 San Diego Unified's Case, OAH case number 2021120433.
4. Mediation scheduled for January 10, 2022, in San Diego's Unified's Case shall proceed as scheduled unless cancelled by the parties.

IT IS SO ORDERED.

Rommel P. Cruz

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Administrative Law Judge

Office of Administrative Hearings