

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

CUPERTINO UNION SCHOOL DISTRICT,

OAH CASE NUMBER 2022010616

OAH CASE NUMBER 2022010412

ORDER GRANTING MOTION TO CONSOLIDATE

JANUARY 27, 2022

On January 18, 2022, Cupertino Union School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2022010412, Cupertino's Case, naming Student. On January 24, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022010616, Student's Case, naming Cupertino. On January 24, 2022, Student filed a Motion to Consolidate the cases. On January 27, 2022, Cupertino 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, both cases involve a common question of law or fact, specifically, the appropriateness of the individualized education program, or IEP, developed at the IEP team meetings commencing on May 17, 2022, and concluding on August 2, 2022. Cupertino does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because many of the same witnesses will testify at both hearings and much of the same evidence will be presented. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Cupertino's Case, OAH case number 2022010412, 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 2022010616.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings