

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

NEWPORT-MESA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024101054

OAH CASE NUMBER 2024070500

ORDER GRANTING MOTION TO CONSOLIDATE

NOVEMBER 1, 2024

On July 15, 2024, Newport-Mesa Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing naming Student, in OAH case number 2024070500, called District's Case.

On October 29, 2024, Student filed a Request for Due Process Hearing naming Newport-Mesa in OAH case number 2024101054, called Student's Case.

Also on October 29, 2024, Student filed a Motion to Consolidate District's Case and Student's Case.

On October 30, 2024, Newport-Mesa filed with OAH notice that Newport-Mesa did not object to Student's Motion to Consolidate.

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 common questions of law and fact. District's Case contends Newport-Mesa conducted appropriate assessments of Student's areas of psychoeducation, speech and language, audiology, occupational therapy, and adapted physical education for a triennial revaluation, and prepared an appropriate multidisciplinary assessment report dated June 4, 2024. District seeks an order determining its assessments and multidisciplinary report were appropriate, and that Parents, therefore, are not entitled to independent educational evaluations in any of those areas, at public expense.

Student's Case alleges Newport-Mesa denied Student a free appropriate public education by failing to make an appropriate offer of goals, services, and placement in its June 4, 2024 annual individualized educational program developed for Student. Student alleges the offer was inappropriate because it was based on Newport-Mesa's multidisciplinary report that did not accurately reflect Student's unique needs, as it was based on inappropriate and inaccurate assessments.

Newport-Mesa does not oppose Student's motion to consolidate. Also, consolidation furthers the interests of judicial economy because both cases involve the same factual issues regarding the appropriateness of Newport-Mesa's triennial evaluation, and will involve the same witnesses and exhibits. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. Student's Case number 2024101054 is designated as the primary case. All dates previously set in District's Case number 2024070500 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 2024101054.

IT IS SO ORDERED.



Robert G. Martin

Administrative Law Judge

Office of Administrative Hearings