BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND

MAGNOLIA SCIENCE ACADEMY - SANTA ANA,

OAH CASE NUMBER 2023010808

OAH CASE NUMBER 2023010438

ORDER GRANTING MOTION TO CONSOLIDATE

MARCH 20, 2023

On January 18, 2023, Magnolia Science Academy-Santa Ana filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2023010438, Magnolia Science's Case, naming Student.

On January 26, 2023, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2023010808, Student's Case, naming Magnolia Science Academy-Santa Ana. Magnolia Science's Case and Student's Case are both set for hearing on April 11, 12, and 13, 2023.

On March 14, 2023, Magnolia Science filed a Motion to Consolidate the cases. Student did not file a response.

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].)

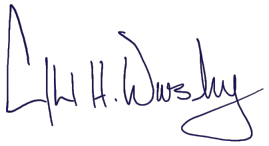
Here, both cases involve a common question of law or fact. Magnolia Science's Case seeks an order allowing it to assess Student without parental consent. Magnolia Science contended that Student did not, and never did, have an active, valid IEP that could be implemented, and that assessment is necessary to respond to Parent's requests for special education services. Student's Case asserts that Magnolia Science denied Student a FAPE, by failing to implement an existing IEP. Both matters involve factual and legal determinations common to both cases. Consolidation also furthers the interests of judicial economy because both cases would require testimony from the same witnesses and review of the same documentary evidence. Accordingly, consolidation is granted.

ORDER

1. Magnolia Science Academy-Santa Ana's motion to consolidate is granted.
2. Student's Case, OAH case number 2023010808, is designated as the primary case. All dates previously set in Magnolia Science's Case, OAH case number 2023010438, are vacated.

3. The Student's Case's prehearing conference of April 3, 2023, and hearing of April 11 through 13, 2023, shall take place as scheduled in these consolidated matters.
4. 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 the primary case, OAH case number 2023010808.

IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings