BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

CAPISTRANO UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023120742

ORDER DENYING STUDENT'S MOTION TO CONSOLIDATE

APRIL 17, 2024

On December 20, 2023, Capistrano Unified School District, called Capistrano, filed with the Office of Administrative Hearings, called OAH, a request for due process hearing in OAH case number 2023120742, Capistrano's Case, naming Parent on behalf of Student. Capistrano's complaint seeks an order from OAH that its October 27, 2023 individualized education program offered Student a free appropriate public education, called FAPE.

On April 15, 2024, Parent on behalf of Student filed a request for due process hearing in OAH case number 2024040536, Student's Case, naming Capistrano. Student's complaint alleges claims dating back to the 2021-2022 school year.

On April 15, 2024, Student filed a motion to consolidate the cases. On April 15, 2024, Capistrano filed an objection to consolidation on the grounds it was untimely. Capistrano argued the motion to consolidate was not filed three business days before the prehearing conference, called PHC, scheduled on April 15, 2024, and was not supported by a declaration under penalty of perjury.

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].)

OAH held a PHC in this matter on April 15, 2024; the same day Student filed his motion to consolidate and complaint. Student did not comply with the Scheduling Order in this matter by filing the motion three business days before the PHC. The motion to consolidate did not include a declaration establishing good cause why the motion was not filed three business days before the PHC or otherwise establish good cause for the motion to be granted.

Further, Student's Case and Capistrano's Case do not involve a common issue of law or fact. Specifically, the claims in Student's case pre-date the October 27, 2023 IEP. Student does not raise claims associated with the October 27, 2023, IEP, other than to

reference Student's disagreement with its placement offer. Consolidation also does not further the interests of judicial economy because Capistrano's Case was filed in December 2023 and is ready for hearing. Accordingly, Student's motion to consolidate is denied.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings