BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

WEST COVINA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025040128

OAH CASE NUMBER 2025020504

ORDER GRANTING MOTION TO CONSOLIDATE

APRIL 4, 2025

On February 13, 2025, West Covina filed with the Office of Administrative Hearings a Request for Due Process Hearing, called District's Case, naming Student. OAH designated the filing as case number 2505020504. In the District's Case, West Covina sought approval of an IEP offer made in November 2024, to move Student to a non-public school in response to several incidences of misbehavior.

On March 7, 2025, OAH held a prehearing conference (called here a PHC) in District's case. At the PHC, OAH continued District's Case at the District's request, which was based on lead counsel's conflicting commitments in other matters. Student did not oppose the motion. Student, who was not represented by counsel, stated that a

continuance was appropriate so that Student could obtain counsel. The PHC was set for April 7, 2025, and the hearing was set to begin on April 15, 2025.

On April 1, 2025, through an attorney, Student filed a request for due process hearing, called Student's Case, naming West Covina. OAH designated the matter OAH Case No. 2025040128.

On April 1, 2025, Student also filed a motion to consolidate District's Case with Student's Case. Student also requested that the hearing be continued to "new dates" so that the parties could meet in a resolution session or mediation. West Covina filed an opposition to the motion on April 3, 2025, primarily on the ground that the relief it seeks in District's Case is urgent. On that same day, Student filed a reply to West Covina's opposition to the 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].)

West Covina opposes consolidation because it will delay the hearing, now set to begin on April 15, 2025. In its pleading, West Covina asserts that Student has engaged in behaviors that warranted a total of at least thirty-four Behavior Occurrence Reports ("BOR"), and that these behaviors have caused significant physical injuries to multiple staff members, some of which required medical treatment. West Covina further asserts

that its principle purpose in trying to place Student in a non-public facility is to prevent further injury to Student, staff or others.

West Covina's plea of urgency is less than convincing because it is based on the unsworn assertions of counsel in the District's opposition, but is not supported by any declarations. Without more information, it is not possible to determine the urgency of a change of placement. At any time West Covina could have filed a request for an expedited due process hearing on the ground that the Student is a danger to himself or others, but did not do so. (See 20 U.S.C. § 1415(k)(3)(A).)

In addition, it is not clear that denying consolidation would produce the desired result. On the current schedule, the decision in this hearing would be rendered in four to six weeks after the hearing, which would be at or about the end of the school year. It is speculative that West Covina could immediately implement a change of placement so close to the end of the academic year.

West Covina argues that Student has engaged in "calculated delay" and is merely attempting to delay the hearing. However, Student has acted with reasonable diligence. On March 7, 2025, he sought time to obtain counsel, and by the end of the month had done so. Counsel promptly filed Student's Case and moved to consolidate.

Here, both cases involve a common question of law or fact, specifically, whether the IEP offer West Covina made in October and November 2024 would provide Student a free appropriate public education. In addition, consolidation furthers the interests of judicial economy because it avoids two separate hearings and negates the possibility of conflicting rulings. 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 the District's Case, OAH case number 2025020504, 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 2025040128.
4. Student's request for new dates is denied as moot.

IT IS SO ORDERED.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings