BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

ELK GROVE UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2021060404 AND 2020120855

ORDER GRANTING MOTION TO CONSOLIDATE

JUNE 14, 2021

On December 29, 2020, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2020120855, Student's Case, naming Elk Grove Unified School District. On April 28, 2021, Student filed an amended complaint.

On June 8, 2021, Elk Grove filed a Request for Due Process Hearing in OAH case number 2021060404, District's Case, naming Student.

On June 9, 2021, Elk Grove filed a Motion to Consolidate Student's Case with District's Case.

On June 11, 2021, Student filed an objection to consolidation on the grounds that District's Case involves an issue not in dispute in Student's complaint, and that

consolidation would prejudice Student as it would result in a further delay of the hearing. On June 14, Elk Grove filed a reply to Student's opposition.

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, District's case involves the issue of whether Elk Grove's March 3, 2021 IEP, as amended on April 2, April 5, April 27, and May 24, 2021, offers Student a free appropriate public education, called a FAPE. Student's Case does not involve a common issue. However, Student's Case and District's Case involve overlapping time periods, common facts, witnesses, and evidence. Consolidation would therefore promote judicial economy and prevent inconsistent findings of fact. Accordingly, Elk Grove's motion to consolidate is granted.

ORDER

1. Elk Grove's Motion to Consolidate is granted.
2. District's Case is designated as the primary case. All dates previously set in Student's case, OAH case number 2020120855, are vacated. The prehearing conference in the consolidated cases shall be held via videoconference on June 28, 2021, at 3:00 pm. The due process hearing

for the consolidated cases shall be held via videoconference on July 7, and 8, 2021.

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 District's Case, OAH case number 2021060404.

IT IS SO ORDERED.

Rita Defilippis

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Administrative Law Judge

Office of Administrative Hearings