BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

EXCEL ACADEMY CHARTER SCHOOL,

OAH CASE NUMBER 2024120834

OAH CASE NUMBER 2024100529

ORDER GRANTING MOTION TO CONSOLIDATE

JANUARY 3, 2025

On October 15, 2024, Excel Academy Charter School filed with the Office of Administrative Hearings, called OAH, a request for due process hearing, OAH case number 2024100529, naming Student. The due process hearing begins January 7, 2025.

On December 24, 2024, Student filed a request for due process hearing, OAH case number 2024120834, naming Excel Academy Charter School. On December 27, 2024, Student filed a motion to consolidate the cases. Excel Academy Charter filed opposition on January 2, 2025. Student filed a reply on January 3, 2025.

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].)

Student argues consolidation of these two cases is appropriate because they involve common questions of law and fact, and consolidation furthers the interest of judicial economy. Excel Academy Charter maintains consolidation will: (1) prejudice both cases; (2) was untimely; (3) does not promote judicial economy; and (4) failed to submit exigent circumstances to continue this matter are ordered in the November 25, 2024 Order Following Prehearing Conference.

Here, both cases involve a common question of law or fact, specifically, both cases involve whether in its entirety or portions of the October 2024 IEP offer was a free appropriate public education. Further, consolidation promotes judicial economy because the cases involve overlapping witnesses and evidence, and prevents inconsistent rulings.

Excel Academy Charter School failed to establish prejudice to either Student or Excel Academy Charter. It's argument hinges on the claim that the Parent's failure to provide full consent to its October 2024 individualized education program offer deprived Student of a free appropriate public education, called FAPE, because it cannot implement the offer. Thus, it contends, the January 7, 2025 due process hearing, where Excel Academy Charter seeks a finding that it offered a FAPE, should not be continued. However, prejudice requires a showing of tangible harm or significant procedural disadvantage, neither of which have been substantiated here.

Moreover, consideration of judicial economy and the risk of inconsistent rulings strongly outweighs any of Excel Academy Charter's arguments. Consolidating the matters before this tribunal serves to streamline the adjudicative process, minimize redundant proceedings, and ensure uniformity in decisions affecting the same set of facts. These principals are particularly critical in cases involving the education of students, and the rights of students and school districts, where efficiency and clarity are paramount to achieving just outcomes.

It is also important to emphasize that Student is not seeking a continuance, rather consolidation, a mechanism aimed at efficiency rather than delay. Consequently, Excel Academy Charter's invocation of "exigent circumstances" is misplaced.

Although, Student's resolution session cannot be waived by the undersigned, and Student's due process hearing dates will be ordered, the broader judicial economy and consistency in these matters takes priority. Accordingly, Student's motion for consolidation is granted.

ORDER

1. Student's motion to consolidate is granted.
2. Student's case, OAH case number 2024120834, is designated as the primary case.
3. All dates previously set in Excel Academy Charter School's case, OAH case number 2014100529, are vacated.
4. The consolidated matters will proceed on the dates set in Student's case, OAH case number 2024120834.

5. The 45-day timeline for issuance of the decision in the consolidated cases will be based on the date of the filing of the complaint in Primary Case, OAH case number 2024120834.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings