BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2015050575 ORDER DENYING STUDENT'S MOTION TO CONSOLIDATE

On January 29, 2015, Capistrano Unified School District filed a Request for Due Process Hearing in OAH case number 2015010890 (District's Case), naming Student. On May 18, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015050575 (Student's Case), naming District.

On May 18, 2015, Student filed a Motion to Consolidate District's Case with Student's Case. On May 20, 2015, District filed an objection to consolidation on the ground that: District's Case is scheduled to begin hearing on May 26, 2015; hearing in District's Case has already been subject to a lengthy continuance; and the issues in Student's Complaint are both legally and factually broader than those in the first complaint.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; 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 and Student's Case involve different issues. Although the issues in the two cases are marginally interdependent, on balance the two cases require significantly different witnesses and evidence. In District's case, District seeks a ruling that its assessments were procedurally appropriate so as to not require District to fund independent educational assessments at public expense. Student's case challenges whether two individualized education programs offered by District in 2014 provided Student with a free appropriate public education. Student does not challenge District's assessments or seek independent educational evaluations as a proposed resolution. While the outcome of

District's Case may impact the outcome of Student's Case, that relationship alone is not sufficient grounds to consolidate the cases.

The District's case was filed on January 29, 2015. Student first indicated that it intended to file a complaint, and to seek to consolidate the cases, during the prehearing conference in District's Case on May 18, 2015. District is ready to proceed with its case and because District's case has been continued at the parties' joint request, District is entitled to have its case heard so as to not prejudice District with additional lengthy continuance(s).

Student asserts that both cases involve common witnesses and evidence. That alone is not sufficient grounds for consolidation. While there may be some witnesses that will be necessary at both hearings, overall there are many more witnesses, exhibits, and issues that are involved in the second hearing, such that there is minimal judicial economy to be found in consolidating the cases. Accordingly, consolidation is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates previously set in OAH Case Number 2015010890 (District's Case) are confirmed. Hearing shall begin on May 26, 2015.

DATE: May 21, 2015

/s/

TED MANN
Administrative Law Judge
Office of Administrative Hearings