BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018030452
v.	ORDER DENYING MOTION TO CONSOLIDATE
POWAY UNIFIED SCHOOL DISTRICT.	

On March 9, 2018, Student filed her due process hearing complaint with the Office of Administrative Hearings, OAH Case no. 2018030452 (Student's Case). The pre-hearing conference on Student's Case was held on April 27, 2018, where Student withdrew all issues regarding inappropriate assessments, without prejudice, leaving only issues regarding District's inappropriate reduction of consultation services from The Autism Group, and District's failure to provide prior written notice to parents before reducing consultation services for hearing. At the PHC, the parties informed the ALJ that District had filed its complaint along with a motion to consolidate a few hours before the PHC, and requested that the issues in District's case proceed on the currently scheduled hearing dates in Student's Case should consolidation be granted.

The issues in District's due process hearing complaint, OAH Case no. 2018041249, was whether it had the right to assess Student in the areas of academic achievement, motor development, processing, speech/language, intellectual development, social emotion, adaptive behavior, health and need for and aide without parental consent. On May 1, 2018, Student filed an opposition to the consolidation motion on the following grounds: (a) that District's last minute filing of its complaint and consolidation motion, if granted, would significantly prejudice Student's right to prepare a defense of District's issues; (b) the issues in Student's case are different from District's assessment case, and the interests of judicial economy would not be furthered by consolidation.

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].)

Student's Case is exclusively about District's termination of consultation services from The Autism Group and prior written notice regarding same. District's Case is about enforcing its right to assess in a number of areas without parental consent. The issues in Student's and District's cases are distinct enough to justify separate hearings. Based on the above, consolidation does not further the interests of judicial economy. The motion to consolidate District's Case with Student's Case is denied.

ORDER

1. District's Motion to Consolidate is denied. Student's case shall proceed as scheduled.

2. District's Case will proceed on its own scheduled hearing dates.

IT IS SO ORDERED.

DATE: May 2, 2018

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings