BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTERS OF:

CHINO VALLEY UNIFIED SCHOOL DISTRICT

V.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022090163

AND

PARENTS ON BEHALF OF STUDENT

V.

CHINO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080108

ORDER DENYING MOTION TO CONSOLIDATE

SEPTEMBER 16, 2022

On August 1, 2022, Student filed with the Office of Administrative Hearings a request for due process hearing, called Student's Complaint, on OAH case number 2022080108, naming Chino Valley Unified School District. The sole issue in Student's Complaint is whether Chino Valley denied Student a FAPE by failing to provide an appropriate IEP to meet Student's unique educational needs for the 2022-23 school year in compliance with OAH's June 16, 2022 Order. As remedies, Student seeks reimbursement for educational expenses, funding of a nonpublic school, and compensatory education. On September 2, 2022, OAH granted the parties' joint request and set mediation for November 7, 2022, and the due process hearing for January 10 through 12, 2023.

On September 6, 2021, Chino Valley filed a request for a due process hearing, Chino Valley's Complaint, OAH, Case No. 2022090163. The sole issue in Chino Valley's Complaint is whether it may assess Student, per the July 29, 2022 assessment plan, without Parent's consent.

On September 14, 2022, Student filed a Motion to Consolidate the Chino Valley's Complaint with Student's Complaint. On September 16, 2022, Chino Valley filed opposition, objecting to consolidation on the ground that the two actions do not share common questions of law and fact to warrant consolidation, which would delay Chino Valley's right to an expeditious ruling on its request to assess Student, without parental consent.

On September 19, 2022, ALJ Woosley convened the prehearing conference on Chino Valley's Complaint. Julie C. Coate, Attorney at Law, appeared on behalf of Chin Valley Unified School District. Phil W. VanAllsburg, Attorney at Law, appeared on behalf of Student. The parties argued Student's motion to consolidate at the conference.

CONSOLIDATION

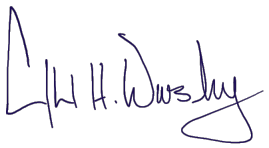
No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, and when consolidation of the matters furthers the 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, Chino Valley has a right to an expeditious determination on its request to assess Student, which consolidation would unduly delay. Student's Complaint and Chino Valley's Complaint do not involve substantial common question of law or fact. Though the two complaints involve the same parties, the issues are distinctly different. Student's Case concerns whether the IEP developed by Chino Valley pursuant to a June 16, 2022 OAH decision, issued in Student's prior due process action (OAH Case No. 2021120672), offers a FAPE. Chino Valley's Complaint does not involve FAPE, but seeks to assess Student pursuant to a proposed July 2022 assessment plan. OAH's June 2022 decision does not forbid Chino Valley from seeking to assess Student.

ORDER

1. Student's Motion to Consolidate is denied.

IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings