BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018090597 ORDER DENYING MOTION TO CONSOLIDATE

On September 17, 2018, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2018090597naming Los Angeles Unified School District (Student's Case). The hearing in Student's Case was continued on October 31, 2018, pursuant to a request of both parties. The initial Scheduling Order and the October 31, 2018 Order in Student's Case informed the parties that motions must be filed three business days before the prehearing conference. OAH then generally allows three business days to file an opposition. Los Angeles sought a second continuance of the hearing, which was granted on January 23, 2019. The January 23, 2019 Order set the prehearing conference on March 18, 2019, and the hearing for March 26, 27 and 28, 2019. Three business days before the March 18, 2019 PHC was March 13, 2019.

On March 14, 2019, Los Angeles filed a Request for Due Process Hearing in OAH case number 2019030589 naming Student (Los Angeles' Case). On March 15, 2019, Los Angeles filed a Motion to Consolidate Student's Case with Los Angeles' Case and to advance the hearing date in Los Angeles' Case to the hearing dates in Student's Case.

On March 18, 2019, OAH received Student's Response to District's Request for Due Process Hearing, Motion to Strike District's Request, and Motion to Strike District's Motion to Consolidate as Untimely primarily on the grounds that Los Angeles' failed to show good cause for why it was not possible to file the motion to consolidate three business days before the prehearing conference and consolidation would prejudice him because the hearing is set to commence on March 26, 2018.

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].)

Issue five in Student's Case, and the sole issue in District's Case, involve a common question of law and fact, specifically, the appropriateness of the January, 2018, psycho-educational assessment. The January 2018 assessment has been at issue in this litigation since September 17, 2018. Filing a complaint two business days before the PHC and requesting consolidation in this case does not further the interests of judicial economy or risk the potential for inconsistent rulings as to whether the January, 2018, psycho-educational assessment was appropriate. Moreover, Los Angeles requested the continuance and agreed upon the dates in Student's Case knowing the January 2018 assessment was at issue. Filing a separate case on the same issue at the eleventh hour does not justify the failure to file a Motion to Consolidate, or to advance the dates in District's Case to the dates in Student's Case, three business days before the PHC on March 18, 2019. It is not in the interests of justice, and would prejudice Student, to complicate the hearing with consolidation less than a week before the hearing starts.[1]

ORDER

1. Los Angeles' Motion to Consolidate is denied.
2. All dates previously set for hearing in this matter shall remain as scheduled.

IT IS SO ORDERED.

DATE: March 20, 2019

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Christine Arden
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CHRISTINE ARDEN
Administrative Law Judge
Office of Administrative Hearings

[1] There is no authority to support Student's motion to strike Los Angeles' complaint in case number 2019030589 nor Student's request for an Order that Los Angeles immediately fund an independent educational evaluation. Accordingly, those requests are denied.