BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PARAMOUNT UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013070575 ORDER DENYING MOTION TO CONSOLIDATE

On July 12, 2013, Paramount Unified School District (District) filed a Request for Due Process Hearing in OAH case number 2013070575 (First Case), naming Parent on behalf of Student (Student). The issue stated in the District's complaint is whether the District's 2013 assessments were appropriate. On July 25, 2013 and August 19, 2013, Student filed a request for continuance of the hearing to dates in December 2013. The District opposed the requests to continue the hearing to December 2013. Accordingly, the hearing was initially continued to September 2013, and then continued to November 12, 2013.

On October 28, 2013, Student filed a Request for Due Process Hearing in OAH case number 2013101004 (Second Case), naming the District. On the same day, Student filed a Motion to Consolidate the First Case with the Second Case. The issues listed in the Student's complaint are: (1) whether the District denied Student a free and appropriate public education (FAPE) when it failed to adopt the goals set forth by the Autism Behavior Services assessment presented at the February 6, 2013 IEP meeting; (2) whether the District denied Student a FAPE when it failed to provide a qualified aide throughout the day; (3) whether the District denied Student a FAPE when it undertook allegedly defective assessments; and (4) whether the District denied Student a FAPE when it failed to evaluate Student in all areas of disability. The hearing in the Second Case is scheduled to begin on December 19, 2013.

On October 30, 2013, District filed an Opposition, In Part, To Student's Motion to Consolidate on the grounds that the issues in the Student's complaint (specifically, issues (1) and (2) in Student's complaint) are both legally and factually much broader than the issue in the District's complaint, and would require the introduction of a significant number of additional documents, as well as the testimony of witnesses, not relevant to the issues in the District's complaint. District also opposes any continuance of the hearing in the First Case on the grounds that Student has been granted two prior continuances.

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].) However, consolidation is not always appropriate even when there are common questions of law or fact if one case contains many other issues and there has been a delay in moving to consolidate. (*Student v. Corona-Norco Unified School District*, OAH Case No. 2009061130.)

Here, Student has failed to demonstrate a sufficient basis for consolidation. The Student's complaint contains more and different issues than those contained in the District's complaint. The First Case is limited to the sufficiency of the assessments in order to demonstrate that Student is not entitled to independent educational evaluations (IEEs) at public expense. In contrast, the issues raised in the Second Case significantly expand the issues and involve the testimony of witnesses and other evidence not relevant in the First Case. The number of issues alleged by the Student, as compared to the sole issue raised by the District, demonstrates that consolidation would not result in judicial economy or efficiency. A consolidated case would likely be more time consuming.

To the extent there is overlap between the issue in the District's complaint and Issues (3) and (4) of Student's complaint, each party will have the opportunity to present evidence regarding the assessments in the First Case, which may eliminate issues and/or the need to present certain evidence in the Second Case. In any event, the remote chance of inconsistent rulings as to the assessments does not justify any further delay in District's case and it will not necessarily save judicial time and resources to consolidate the cases for one hearing.

Furthermore, District's case has been pending since July 12, 2013, and there have already been two continuances. The hearing is set to start in approximately two weeks. Student offers no explanation for the decision to wait until the eleventh hour before the hearing to file the motion to consolidate. It would not serve the interests of judicial economy to further delay and lengthen the District's case.

ORDER

Student's motion to consolidate is denied.

Dated: November 1, 2013

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings