BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024010630

ORDER DENYING MOTION TO CONSOLIDATE

MAY 6, 2024

On February 19, 2024, Parent on behalf of Student, referred to as Student, filed with the Office of Administrative Hearings, referred to as OAH, a first amended request for due process hearing in OAH case number 2024010630, Student's first case, naming Fresno Unified School District and Clovis Unified School District. On April 18, 2024, OAH granted Student's request to dismiss Fresno Unified School District.

On April 25, 2024, Student filed a request for due process hearing in OAH case number 2024041077, Student's second case, naming Clovis Unified School District, referred to as Clovis.

On April 26, 2024, Clovis filed a motion to consolidate Student's first and second cases. On April 30, 2024, OAH commenced the due process hearing in Student's first case. Student did not file a written response to the motion to consolidate.

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, consolidation of Student's first and second cases is not proper. Under the Individuals with Disabilities Education Act, a parent has the right to file separate, additional, due process complaints when they have a due process complaint already filed. (14 U.S.C. § 1415(o).) Alternatively, if a parent wants to expand the issues in a due process complaint already filed, the parent may file a timely motion to amend and amended complaint. However, a motion to consolidate is not the proper process to expand the issues in a due process complaint already filed. In addition, consolidation

does not further the interests of judicial economy because the parties have already completed three hearing days in Student's first case.

Clovis's motion to consolidate is denied.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings