BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PLACENTIA-YORBA LINDA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015120287
PLACENTIA-YORBA LINDA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016040038 ORDER DENYING MOTION TO CONSOLIDATE AND DENYING REQUEST TO CONSOLIDATE HEARING DATES

On January 21, 2016, Student filed with the Office of Administrative Hearings a First Amended Request for Due Process Hearing in OAH Case Number 2015120287, naming Placentia-Yorba Linda Unified School District.

On April 1, 2016, District filed a Request for Due Process Hearing in OAH Case Number 2016140038, naming Student.

On April 4, 2016, District filed a Motion to Consolidate District's case with Student's case and to consolidate the due process hearing date set in District's case, OAH Case Number 2016040038, to the hearing dates scheduled in Student's case, OAH Case No. 2015120287.

On April 5, 2016, Student filed an objection to consolidation on the ground that the issue in District's case and Student's case do not involve common facts or common question of law.

APPLICABLE LAW AND DISCUSSION

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].)

Here, District's case and Student's case do not involve a common question of law or fact. Specifically, Student's issues involve claims of denial of a free and appropriate public education pursuant to Student's applicable individualized education programs for the 2014-2015 school year, and denial of a free appropriate public education by failing to implement speech and language services pursuant to Student's 2015 annual IEP. District's sole issue involves the appropriateness of District's decision to exit Student from special education pursuant to the recommendations of his March 1, 2016 annual IEP team.

Based upon the snapshot rule, (*Adams v. State of Oregon,* (9th Cir.1999) 195 F.3d 1141, 1149.) the cases do not involve common facts or law for determination. Student's case involves the IEP's developed in 2014 and 2015. District's case involves the IEP developed in 2016. While the cases may involve some of the same witnesses, their testimony, in relevant parts, should not overlap significantly. The law involved in determining denial of a free appropriate public education pursuant to an IEP is separate from the law involved in determining the criteria for termination of special education and related services. Further, whether Student is currently ineligible for special education does not determine whether Student is entitled to a remedy for a past denial of a free appropriate public education.

District's request for consolidation is denied.

Hearing Dates

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

As part of its motion, District requested that the dates set for hearing in OAH Case No. 2016040038, be vacated and consolidated with the hearing dates currently set in Student's case, OAH Case No. 2015120287. As the request to consolidate the matters has been denied, so must District's request to consolidate the hearing dates.

ORDER

1. District's Motion to Consolidate is denied.
2. District's Motion to consolidate hearing dates is denied. All dates previously set for hearing in OAH Case No. 2016040038 shall remain as scheduled.

IT IS SO ORDERED.

DATE: April 12, 2016

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings