BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022110728

ORDER DENYING MOTION TO CONSOLIDATE

DECEMBER 2, 2022

On November 17, 2022, Student filed with the Office of Administrative Hearings, called OAH, a request for due process hearing, naming Sacramento City Unified School District, case number 2022110614. OAH designated it as a dual case, involving both expedited and non-expedited issues, and set the expedited hearing to begin December 20, 2022, and the non-expedited hearing for January 4, 2022.

On November 28, 2022, Sacramento City Unified School District filed with OAH a request for due process hearing naming Student in OAH case number 2022110728. OAH designated the case as dual with both expedited and non-expedited issues, and set the expedited matter to begin December 13, 2022, and the non-expedited matter for December 20, 2022.

On November 30, 2022, Sacramento City Unified School District filed a request to consolidate the cases and requested that OAH set the consolidated matter consistent with the scheduling order in case number 2022110614, with the expedited matter to begin December 20, 2022, and the non-expedited matter set for January 4, 2022. Student did not file a response.

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].)

Although these cases involve the same parties, the issues are distinct. Thus, consolidation is not warranted.

Sacramento City Unified School District alleges two issues.

Issue One: "Whether maintaining Student's current placement at JFK is substantially likely to result in injury to himself or others given the nature of his behaviors.

Issue Two: "Whether the District offered Student a FAPE in the LRE through the May 24, 2022 IEP, as amended on November 7, 2022, such that the District may implement it without parental consent.

Proposed Resolution One: OAH should order Student's current placement at JFK is substantially likely to result in injury to himself and others, so placement at an IEAS for up 45 school days is appropriate.

Proposed Resolution Two: OAH should order that the May 25, 2022 IEP, as amended on November 7, 2022, offers Student a free appropriate public education in the least restrictive environment over parental objection.

As represented in Sacramento City Unified School District's complaint, on September 22, 2022, OAH ordered Student to an interim alternative educational setting, OAH case number 2022080223, and this request is to allow Student to remain there for an additional 45 days and permit it to implement Student's individualized education program without parental consent.

Student's complaint alleges six issues. The issues will likely be more specifically refined during the pre-hearing conferences. However, they generally allege, a failure to implement Student's IEP; discriminatory conduct; failing to provide suspension notification; interfering with the right to education; lack of security; violation of stay put; and violating manifestation determination timelines.

Here, Sacramento City Unified School District's request to consolidate is denied. It failed to demonstrate that the expedited issues involved in both cases involve common issues of law or fact. The expediated issues are distinct with no overlap and further require a different legal analysis. Although there may be some overlap in witnesses, there is no danger of inconsistent rulings in the expedited matters. Merely using some of the same witnesses does not substantiate consolidation or result in judicial economy. To the contrary, it may further complicate matters.

Accordingly, Sacramento City Unified School District's motion to consolidate the expedited issues is denied.

Sacramento City Unified School District's motion to consolidate the non-expedited matters is denied without prejudice. After the expedited matters are completed or resolved, the parties can seek consolidation of the remaining issues if they so choose and the new motion to consolidate will be considered.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings