

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

ANAHEIM UNION HIGH SCHOOL DISTRICT AND DR. KAREN  
DABNEY-LIERAS.

OAH CASE NUMBER 2019090350

ORDER DENYING ANAHEIM UNION'S MOTION TO  
CONSOLIDATE

On August 21, 2019, Anaheim Union High School District filed with the Office of Administrative Hearings, also known as OAH, a Request for Due Process Hearing in OAH case number 2019080786, First Case, naming Parent on behalf of Student.

On August 22, 2019, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2019080779, Second Case, naming Anaheim Union. Student filed an amended Request for Due Process Hearing in the Second Case on August 26, 2019.

On September 4, 2019, OAH ordered the First Case consolidated with the Second Case.

On September 10, 2019, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2019090350, Third Case, naming Anaheim Union and a third party.

On September 20, 2019, Anaheim Union filed a motion to consolidate the First and Second Cases with the Third Case.

Student has not filed a response to Anaheim Union's motion.

## 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].)

A parent is entitled under title 20 United States Code section 1415(o) to file a separate due process complaint on an issue separate from a due process complaint already filed. Section 1415(o) also entitles the parent to separate hearings, unless he or she amends one of the complaints to include all the issues and dismisses the other to allow all the issues to be heard in one hearing.

Here, the Third Case involves both common and separate questions of law and fact with the First and Second Case. Although all three cases involve claims regarding whether the December 17, 2018 individualized education program, as amended on August 21, 2019, offered Student a free appropriate public education, the Third Case

also involves claims arising after the amended complaint in the Second Case was filed on August 26, 2019. Parent is entitled to separate hearings unless he chooses to amend the complaint in the Second Case to encompass all claims, and dismisses the Third Case.

In addition, here, consolidation does not further the interests of judicial economy, as consolidating a series of cases involving differing parties and ever-expanding issues becomes unwieldy, resulting in complex and intertwined issues, conflicting statutory deadlines, and a hearing that is difficult, if not impossible, to manage and control.

Indeed, Anaheim Union by its earlier motion unsuccessfully sought to consolidate two additional cases (OAH case numbers 2019060873 and 2019080130, withdrawn by Student), to the First Case and Second Case, which, if granted, would have brought the total number of cases sought to be consolidated today to five, and inevitably been unwieldy.

To the extent a prior decision rendered in a due process hearing in one of these matters decides identical issues between identical parties raised in the other cases, those parties may seek application of the doctrines of collateral estoppel or res judicata in subsequent proceedings to avoid calling the same witnesses, presentation of the same evidence, and conflicting results.

Accordingly, consolidation is denied.

IT IS SO ORDERED.

DATED: October 3, 2019

Alexa Hohensee  
Administrative Law Judge  
Office of Administrative Hearings