

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2015060102

ORDER DENYING MOTION TO
CONSOLIDATE

On January 15, 2015, Garden Grove Unified School District filed a Request for Due Process Hearing with the Office of Administrative Hearings in OAH Case Number 2015010573 (District's Case), naming Student. On June 1, 2015, Student filed a Request for Due Process Hearing in OAH Case Number 2015060102 (Student's Case), naming District.¹

On June 1, 2015, Student filed a Motion to Consolidate District's Case with Student's Case. On June 2, 2015, District filed an objection to consolidation on the grounds that: District's Case is scheduled to begin hearing on June 8, 2015; hearing in District's Case has already been subject to a lengthy continuance; and the issues in Student's Complaint are both legally and factually broader than those in District's complaint.

APPLICABLE LAW AND DISCUSSION

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 involve important different issues. Although the issues in the two cases are marginally interdependent as Student challenges District's

¹ Student's legal counsel, Phillip W. Van Allsburg, filed Student's complaint 30 minutes before the prehearing conference in District's case.

December 2012 triennial multi-disciplinary assessment and assessment report², on balance the two cases require significantly different witnesses and evidence. In District's case, District seeks a ruling that its 2012 assessments were procedurally appropriate so as to not require District to fund independent educational assessments at public expense, and its request to assess Student without parental consent. Student's case challenges whether the individualized education program offered by District in October 2014 provided Student with a free appropriate public education. While the outcome of District's Case may impact the outcome of Student's Case, that relationship alone is not sufficient grounds to consolidate the cases.

Student asserts that both cases involve common witnesses and evidence. That alone is not sufficient grounds for consolidation. While there may be some witnesses that will be necessary at both hearings, overall there are many more witnesses, exhibits, and issues that are involved in the second hearing, such that there is minimal judicial economy to be found in consolidating the cases. Accordingly, consolidation is denied.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates previously set in OAH Case Number 2015010573 (District's Case) are confirmed. Hearing shall begin on June 8, 2015.

DATE: June 3, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

² Student's challenge to the December 2012 assessment in Student's complaint is subject to challenge for being barred by the two-year statute of limitations. (Ed. Code, § 56505, subd. (I); see also 20 U.S.C. § 1415(f)(3)(C).)