

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ENTERPRISE ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2021040393

ORDER DENYING MOTION TO CONSOLIDATE

SEPTEMBER 3, 2021

On February 18, 2021, Enterprise Elementary School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021020664, naming Student. On March 22, 2021, Enterprise's motion to amend the complaint was granted.

On April 9, 2021, Student filed a Request for Due Process Hearing in OAH case number 2021040393, naming Enterprise. These matters were consolidated on April 15, 2021, in OAH case number 2021040393. On May 19, 2021, Student's motion to amend its complaint in the consolidated case was granted. A prehearing conference was held on August 27, 2021, in the consolidated case.

On August 27, 2021, after the prehearing conference in the consolidated case, Student filed a Request for Due Process Hearing in OAH case number 2021080836, Student's case, naming Enterprise.

On August 27, 2021, Student filed a Motion to Consolidate the consolidated case with Student's Case.

On September 3, 2021 Enterprise filed an opposition.

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, the consolidated case and Student's case do not involve a common question of law or fact. If the motion were granted, it would expand the due process hearing with different witnesses and evidence. The time period at issue in the consolidated case is between April 9, 2019 and May 19, 2021, and the allegation in Student's case alleges that at an IEP team meeting scheduled for June 2, 2021, an assessment was not timely completed. There is little to no overlap of the time period at issue between the consolidated matter and Student's case. Granting Student's motion would consolidate three matters for hearing and further complicate and delay adjudication of the matter that has been pending since February. OAH may exercise

discretion when granting motions to consolidate. Although the matters involve the same parties, judicial economy would not be served by consolidating these matters.

ORDER

Student's Motion to Consolidate is denied.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings