

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN MARCOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090384

ORDER DENYING MOTION TO CONSOLIDATE

NOVEMBER 30, 2021

On September 14, 2021, Parents on behalf of Student filed with the Office of Administrative Hearings a request for due process hearing in OAH case number 2021090384, First Case, naming San Marcos Unified School District. An amended complaint naming San Marcos was filed in First Case on September 23, 2021. The due process hearing in that matter is scheduled to begin on January 19, 2022.

On November 19, 2021, Parents on behalf of Student filed another request for due process hearing in OAH case number 2021110571, Second Case, again naming San Marcos.

On November 19, 2021, Student filed a motion to consolidate First Case with Second Case, and a request that the consolidated cases be heard on the dates assigned for First Case. No response has been filed by San Marcos.

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].)

However, a party cannot file multiple complaints and seek to consolidate those claims for purposes of hearing. Such a process is unwieldy and does not promote the orderly conduct of the hearing, especially as Student provided no reason why Student just did not amend the complaint. (See 1 Cal. Code Regs. § 1030, subd. (e)(3).) The proper procedure for one party to bring all of its claims to hearing at the same time is to seek leave to amend the complaint. Accordingly, the request to consolidate Student's First case and Student's subsequently filed Second Case is denied.

IT IS SO ORDERED.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings