

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090707

ORDER DENYING MOTION TO CONSOLIDATE

DECEMBER 10, 2021

On September 22, 2021, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2021090707, Student's Case. Student's Case alleges claims dating back to the 2019-2020 extended school year, through the date Student's complaint was filed.

On December 7, 2021, Elk Grove filed a Request for Due Process Hearing in OAH case number 2021120247, Elk Grove's Case, naming Student. Elk Grove's complaint sought an order from OAH that its December 3, 2021 individualized education program offered Student a free appropriate public education. Elk Grove concurrently filed a motion to consolidate and a motion to continue the hearing in Student's case. Elk Grove's motion to continue will be addressed in a separate order.

Student filed an opposition to consolidation on December 10, 2021, asserting that Student's case does not raise facts or issues that directly relate to the December 3, 2021 IEP, rendering consolidation unnecessary.

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].)

OAH held a prehearing conference in this matter on November 29, 2021 and issued an Order Following Prehearing Conference on November 30, 2021. Elk Grove did not inform the ALJ that it intended to file a due process complaint or a motion to consolidate. Elk Grove did not comply with the Scheduling Order in this matter by filing this motion three business days before the prehearing conference. The motion to consolidate did not include a declaration establishing good cause why the motion was not filed three business days before the November 29, 2021 prehearing conference or otherwise establish good cause for the motion to be granted.

Student's Case and Elk Grove's Case do not involve a common question of law or fact. Specifically, the claims in Student's case pre-date the December 3, 2021 IEP. Student does not raise claims associated with the December 3, 2021 IEP. In addition, the motion was untimely and counsel for Elk Grove did not raise the fact of the motion at the prehearing conference. Consolidation does not further the interests of judicial economy because Student's Case was filed in September 2021 and is ready for hearing.

Elk Grove's Motion to Consolidate is denied. Elk Grove's motion to continue Student's Case will be addressed in a separate order.

IT IS SO ORDERED.

Adrienne L. Krikorian

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Administrative Law Judge

Office of Administrative Hearings