

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

MURRIETA VALLEY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021110471

ORDER DENYING STUDENT'S MOTION TO CONSOLIDATE

DECEMBER 1, 2021

On September 21, 2021, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2021090663, Student's Case, naming Murrieta Valley Unified School District, referred to as Murrieta Valley. The Office of Administrative Hearings is referred to as OAH.

On November 16, 2021, Murrieta Valley filed a Request for Due Process Hearing in OAH case number 2021110471, Murrieta Valley's Case, naming Parents on behalf of Student.

On November 29, 2021, OAH held a prehearing videoconference in Murrieta Valley's Case. On November 29, 2021, prior to the prehearing videoconference, Student filed a Motion to Consolidate Student's Case with Murrieta Valley's Case. OAH's

November 29, 2021 Order Following Prehearing Videoconference provided Murrieta Valley an opportunity to respond to Student's Motion to Consolidate.

Murrieta Valley filed an Opposition to Motion to Consolidate on December 1, 2021 on the grounds Student's Case and Murrieta Valley's Case do not involve common issues of law and fact, consolidation will not further the interests of judicial economy by saving time or preventing inconsistent rulings, and Student's motion was untimely.

Student filed a Reply to Murrieta Valley's Opposition to Motion to Consolidate on December 1, 2021.

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].)

OAH's November 18, 2021 Scheduling Order Setting Telephonic Prehearing Conference and Due Process Hearing set November 24, 2021, as the last day to file motions. Any motions filed after this due date must show good cause as to why it was not timely filed. Student's Motion to Consolidate was not timely filed within three business days of the prehearing videoconference. Student's Motion to Consolidate failed to establish good cause for why the Motion to Consolidate was filed untimely.

Further, Student's Case and Murrieta Valley's Case do not involve a common question of law or fact. Specifically, Student's Case alleges that Murrieta Valley denied Student a free appropriate public education, known as FAPE, by unilaterally removing services in Student's individualized education program, called IEP, without filing for due process, failing to timely hold an IEP team meeting during the 2019-2020 school year, and failing to timely and appropriately assess Student in all areas of suspected disabilities in connection with Student's September 8, 2020 IEP. Murrieta Valley's Case seeks a determination that Murrieta Valley is entitled to assess Student according to its October 22, 2021 assessment plan without parental consent.

While the cases involve the same parties, they do not involve a common question of law. The issue of whether Murrieta Valley may assess Student pursuant to the October 22, 2021 assessment plan is unrelated to whether Murrieta Valley denied Student a FAPE based upon the allegations in Student's Case. Further, consolidation is not necessary to prevent inconsistent rulings because a determination whether Murrieta Valley may assess Student pursuant to its October 22, 2021 assessment plan is unrelated to whether Murrieta Valley previously denied Student a FAPE as alleged in Student's Case. Finally, Student fails to offer any specific reasons supported by declaration explaining why consolidation would further the interests of judicial economy.

ORDER

1. Student's Motion to Consolidate is denied.
2. All dates in Student's Case and Murrieta Valley's Case shall proceed as currently scheduled.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings