

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

OJAI UNIFIED SCHOOL DISTRICT.  
OAH CASE NUMBER 2022020569

ORDER DENYING MOTION TO CONSOLIDATE

MARCH 16, 2022

On January 24, 2022, Ojai Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2022010670, Ojai's Case, naming Student.

On February 15, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022020569, Student's Case, naming Ojai.

On March 11, 2022, Student filed a Motion to Consolidate the cases.

On March 15, 2022, Ojai filed a statement of non-opposition to consolidation.

## 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, Ojai's Case and Student's Case do not involve a common question of law or fact. Specifically, Ojai seeks a determination that its October 27, 2021 triennial assessment plan met all legal requirements and that Ojai may assess Student without Parents' consent. Student's Case, as reaffirmed in Student's motion to consolidate, only concerns whether Ojai denied Student a free appropriate public education by failing, during the applicable statute of limitations, to assess Student's cognitive abilities using nonverbal testing measures, to assess "in all areas of suspected need," to provide a one-to-one aide, to "properly remediate [Student's] loss of skills that occurred during COVID" and to provide "appropriate Directed and supplemental services for [Student's] regression on progress and to avoid continued loss of skill due to Covid-19," and by significantly impeding Parents' opportunity to participate the decisionmaking process regarding providing Student a FAPE by failing to use a daily or weekly communication log with Parents. Student also asserts claims under the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, and California's Unruh Civil Rights Act, all of which are not within OAH's jurisdiction.

While Student is accurate that Ojai's Case and Student's Case involve the same parties and will likely require the testimony of some, even many, of the same witnesses,

there is no risk of inconsistent rulings because the issues to be decided do not involve common questions of fact or law. Proof that Ojai satisfied all legal requirements in developing and providing the October 27, 2021 triennial assessment plan and seeking, but failing to obtain, Parents' consent to assess does not relate to whether Student was denied a free appropriate public education by Ojai in any of the ways Student alleges.

## ORDER

Student's Motion to Consolidate is denied. Ojai's Case and Student's Case shall proceed separately as currently scheduled.

IT IS SO ORDERED.

*Kara Hatfield*

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings