BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019060916

ORDER DENYING MOTION TO CONSOLIDATE

On June 20, 2019, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019060916, Student's First Case, naming Newport-Mesa Unified School District.

On September 23, 2019, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2019090871, Student's Second Case, naming Newport-Mesa.

On October 4, 2019, Newport-Mesa filed a Motion to Consolidate Student's First Case with Student's Second Case.

On October 7, 2019, Student filed an objection to consolidation on the ground that Parent expressly filed two different due process requests to focus on discrete issue in each due process hearing.

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].)

A parent is entitled under title 20 United States Code section 1415(o) to file a separate due process complaint on an issue separate from a due process complaint already filed. Section 1415(o) also entitles the parent to separate hearings, unless he or she amends one of the complaints to include all the issues and dismisses the other to allow all the issues to be heard in one hearing.

Here, Student's First Case and Student's Second Case address very separate issues, although similar periods of time are involved. Student's First Case alleges multiple instances of interference by Newport-Mesa with Parents' participation in developing Student's educational program June 2018 through June 2019. Student's Second Case alleges that Newport-Mesa did not implement Student's individualized education programs, or IEPs, during the 2017-2018 and 2018-2019 school years because Student did not receive all sessions of speech services called for in the IEPs. Although both cases have overlapping periods of time, Student's First Case involves procedural errors concerning parental participation in the development of Student's IEPs, and Student's Second Case involves a disparate issue of Newport-Mesa's implementation of Student's IEPs. Further, Parent is entitled to separate hearings unless she chooses to amend the complaint in one case to encompass all claims, and dismisses the other.

To the extent a decision rendered through due process at a hearing on one of Student's cases against Newport-Mesa results in a decision with factual findings or legal conclusions relevant to Student's other case, Student or Newport-Mesa may seek application of the doctrines of collateral estoppel or res judicata in the subsequent proceeding to avoid calling the same witnesses, presentation of the same evidence, and conflicting results.

Accordingly, Newport-Mesa's motion to consolidate is denied.

IT IS SO ORDERED.

DocuSigned by:
Alexa Hohensee
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DATED: October 16, 2019

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings