BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT	OAH Case No. 2017060361 ORDER DENYING MOTION TO CONSOLIDATE
In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT	OAH Case No. 2017090280

On June 7, 2017, District filed its due process hearing complaint with the Office of Administrative Hearings, OAH Case no. 2017060361 (District's Case). On June 21, 2017, District filed a motion to amend its complaint which was granted by OAH on June 26, 2017. The pre-hearing conference on District's Case was held on August 28, 2017. At the PHC, Student's advocate, Victoria Baca, informed the ALJ that Student intended to file a complaint and a motion to consolidate. However, Student did not file his due process hearing complaint (Student's Case) and motion to consolidate until Friday, September 8, 2017.

On September 11, 2017, District opposed the motion to consolidate stating that Student's last minute filing if granted would significantly prejudice District's right to a timely hearing and marshalling of its resources, including the scheduling of its teacher witnesses for testimony and substitutes to undertake their duties. District also expressed concern that granting the motion would reward Student's attempt to manipulate hearing dates with last minute filings. On September 11, 2017, Student also filed a separate request to continue the dates in District's Case, which was ruled upon separately. The hearing on District Case was scheduled to start on Tuesday, September 12, 2017, but is now scheduled to commence on September 13, 2017.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; 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].)

District's Case is exclusively about the appropriateness regarding its assessments and Student's right to independent assessments. Student's Case also has issues regarding assessments along with special education accommodations. While there are common questions of law and fact, a consolidation of the cases will significantly delay District's Case and prejudice District's access to a timely hearing. Student's various last minute filings, days before the September 12, 2017 hearing scheduled for District's case, are specious, and untimely at best. Based on the above, consolidation does not further the interests of judicial economy as granting the request would only reward the dilatory tactics of Student's advocate. The motion to consolidate District's Case with Student's Case is denied.

ORDER

1. Student's Motion to Consolidate is denied. Student's case shall proceed as scheduled.

2. District's Case will proceed on its currently scheduled hearing dates.

IT IS SO ORDERED.

DATE: September 12, 2017

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings