BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030247

ORDER DENYING MOTION TO CONSOLIDATE

MARCH 15, 2024

On February 27, 2024, Downey Unified School District filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, in OAH case 2024020844 naming Parents, on behalf of Student, as respondent. On March 7, 2024, Student, filed a complaint, with OAH, in OAH case 2024030247 naming Downey Unified School District as respondent. OAH determined that Student's case raised some expedited issues and set the case for both expedited and non-expedited proceedings.

Student also filed a motion to consolidate the cases on March 7, 2024. On March 12, 2024, Downey opposed Student's motion to consolidate the two cases on the grounds that judicial economy would not be served.

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); Code of Civ. Proc., § 1048, subd. (a).) However, when one of the cases involves expedited issues, consolidation is not available.

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request, and is entitled to receive, an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006). All subsequent references to the Code of Federal Regulations are to the 2006 version.) OAH must conduct an expedited due process hearing within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2).)

The procedural right to an expedited due process hearing is mandatory. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2).) In this case, Student has filed a case that asserts expedited issues. Those issues cannot be consolidated with Downey's non-expedited case as they operate on different time frames. Nothing in this order denies the parties the right to seek consolidation after the conclusion of the expedited hearing.

ORDER

1. Student's Motion to Consolidate is denied.
2. The cases shall proceed individually as scheduled.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings