BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040407

ORDER DENYING MOTION TO CONSOLIDATE

APRIL 20, 2022

On December 20, 2021, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2021120667, called Student's First Case, naming Ventura Unified School District, sometimes called Ventura USD. Student's First Case alleged three issues.

On January 11, 2022, Ventura USD filed a Motion to Dismiss, which Student opposed. On January 14, 2022, OAH issued an Order Granting in Part and Denying in Part Motion to Dismiss for Statute of Limitations. That Order dismissed Student's second issue in Student's First Case, which alleged Ventura USD failed to offer Student appropriate goals and services at an individualized education program, called an IEP, team meeting on December 10, 2022. That issue accrued outside the two-year statute

of limitations, and the complaint did not allege facts constituting an exception to the statute of limitations.

On April 13, 2022, Student filed another Request for Due Process Hearing in OAH case number 2021120667, called Student's Second Case, naming Ventura Unified School District. Student's Second Case alleges seven issues. However, only Student's first issue in Student's Second Case is alleged as a violation of the Individuals with Disabilities in Education Act, called the IDEA. That issue concerns Ventura USD's failure to assess Student in all areas of suspected disability.

On April 14, 2022, Student filed a Motion to Consolidate the cases. On April 19, 2022, Ventura Unified School District filed an opposition to the motion to consolidate on the ground that the motion improperly attempts to circumvent OAH's January 14, 2022 dismissal of Student's second issue in Student's First Case.

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, Student's First Case and Student's Second Case do not involve a common question of law or fact. Specifically, the sole IDEA issue in Student's Second Case concerns Ventura USD's failure to assess Student in all areas of suspected disability, which is not an issue in Student's First Case. Student's First Case and Student's Second

Case can efficiently be heard separately. Student should have brought a motion for leave to amend in Student's First Case if Student wanted her failure to assess in all areas of suspected disability issue to be tried in the same hearing as the issues pled in Student's First Case. In this instance consolidation does not further the interests of judicial economy. Therefore, Student's Motion to Consolidate is denied.

ORDER

1. Student's Motion to Consolidate is denied.

IT IS SO ORDERED.

Christine Arden

Christine Arden
Administrative Law Judge
Office of Administrative Hearings