BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ALTOS SCHOOL DISTRICT.

OAH CASE NUMBER 2020040705

ORDER DENYING MOTION TO CONSOLIDATE

APRIL 27, 2020

On December 9, 2019, Los Altos filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2019120313, District's case, naming Student.

On April 21, 2020, Student filed a Request for Due Process Hearing in OAH case number 2020040705, Student's Case, naming Los Altos.

On April 24, 2020, Student filed a Motion to Consolidate Student's Case with Los Altos' Case.

On April 23, 2020, Los Altos filed an objection to consolidation on the ground that Student failed to demonstrate consolidation was appropriate, there was no risk of inconsistent decisions or collateral estoppel as Los Altos' case involves a discrete issue

of whether Student is entitled to an independent educational evaluation at public expense.

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, Los Altos' Case and Student's Case do not involve a common question of law or fact. Specifically, Los Altos' case involves a single, discrete issue of whether Student is entitled to an independent educational evaluation at public expense. Meanwhile, Student's case raises eight separate issues including, child find; failure to provide sufficient assessments in all areas of need; failure to offer appropriate support and services to address Student's needs; failure to find Student eligible for special education services, failure to fund request for an IEE, failure to provide a functional behavior analysis; failure to consider Dr. Heneghans' attention deficit hyperactivity disorder diagnosis; predetermining Student's eligibility; and denying Parents meaningful participation by failing to provide Student's complete school records, respond to Parent's request for a speech and language assessment, and denying Parents an opportunity to meaningfully participate in the IEP team meeting process.

The only issue raised in Student's case that impacts Los Alto's case appears to be the assertion that the district failed to fund or timely file for due process in response to

Students' request for an IEE. Although asserted as an independent issue in Student's case, nothing in this ruling prevents Student from raising such as a defense in Los Alto's case.

In addition, consolidation does not further the interests of judicial economy because, Student's motion to consolidate was filed two business days prior to the commencement of Los Altos' due process case. Preparation for Los Altos' case has occurred. Judicial economy is not preserved by consolidating these cases under the circumstances herein. Los Altos' brought this case in December 2019. Student has had ample time to bring her own cause of action prior to the Friday before Los Altos' due process hearing is scheduled to begin on April 28, 2020.

Student's Motion to Consolidate is denied.

IT IS SO ORDERED.

DocuSigned by:
Tiffany Gilmartin
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Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings