BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. GARVEY SCHOOL DISTRICT,	OAH Case No. 2014110367
GARVEY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015040472 ORDER DENYING DISTRICT'S MOTION TO CONSOLIDATE

On October 30, 2014, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2014110367 (Student's Case), naming Garvey School District. Student's Case had a prehearing conference on April 13, 2015, which continued the hearing to June 2, 3, and 4, 2015.

On April 13, 2015, District filed a Request for Due Process Hearing in OAH case number 2015040472 (District's Case), naming Student. District's Case is set for prehearing conference on May, 1, 2015, and hearing on May 7, 2015.

On April 13, 2015, District filed a Motion to Consolidate the First Case with the Second Case. At the April 13, 2015 prehearing conference, Student argued in opposition to District's request to consolidate.

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].)

In District's Case, District seeks an Order allowing it to assess Student for a triennial IEP, as outlined in its proposed March 3, 2015, assessment plan. District asserts that consolidation is appropriate because District's ability to assess is relevant to Student's placement, which is an issue in the First Case. Student opposes consolidation because the triennial assessments are not relevant to whether the District provided Student with a FAPE for the two years before the October 2014 filing of Student's complaint.

Here, Student's Case and District's Case do not involve common questions of law or fact. Student's Case's issues are related to District's provision of home hospital services, placement in a nonpublic school, and fully assessing Student in all areas of suspected disability – before October 30, 2014. Therefore, the issue of whether the District may unilaterally assess Student, more than six months after Student's Case was filed, does not further the interests of judicial economy by preventing inconsistent rulings or saving time. In fact, it would inappropriately expand the hearing to include considerations of events after Student's Case's filing.

ORDER

1. District's Motion to Consolidate is denied.

DATE: April 14, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings