

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA DEPARTMENT OF
EDUCATION, ARCADIA UNIFIED
SCHOOL DISTRICT, AND BONITA
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2016060105

ORDER DENYING MOTION TO
CONSOLIDATE

On March 28, 2016, Bonita Unified School District filed a complaint naming Student as respondent (Bonita's case). On May 31, 2016, Student filed a complaint naming Bonita, Arcadia Unified School District, and the California Department of Education as respondents (Student's case). Student also filed a motion to consolidate the two matters. Bonita, Arcadia, and CDE did not respond to Student's motion for consolidation of the cases.

APPLICABLE LAW

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 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].)

DISCUSSION

Bonita's case includes issues covering a discrete time period. Specifically, it seeks a determination that its January 29, 2016, IEP as amended offered Student a FAPE in the least restrictive environment; and that both its September 30, 2015, academic assessment report and its February 29, 2016, functional behavior assessment were appropriate such that Student is not entitled independent educational evaluations at public expense.

Student's case is far more expansive. Student seeks to pierce the statute of limitations and asserts an ongoing denial of FAPE commencing in the spring of 2012. Student alleges

issues against two entities in addition to Bonita. It is anticipated that many witnesses will be necessary for Student's case that are not relevant or necessary in Bonita's case. Additionally, as Student intends to litigate assessments, and procedural and substantive denials of FAPE covering a four year time period, it is also likely to be much longer than Bonita's case which would not conserve resources or further judicial economy. There is some intersection between Student and Bonita's cases; however, the vast divide does not justify consolidation of these matters.

ORDER

Student's Motion to Consolidate is denied.

IT IS SO ORDERED.

DATE: June 8, 2016

DocuSigned by:

Joy Redmon

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JOY REDMON

Administrative Law Judge

Office of Administrative Hearings