

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

GLENDALE UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010080291

ORDER DENYING MOTION TO
CONSOLIDATE

On August 5, 2010, Glendale Unified School District filed a Request for Due Process Hearing in OAH case number 2010080291 (First Case), naming Student.

On August 23, 2010, Parent, on behalf of Student, filed a Request for Due Process Hearing in OAH case number 2010080983 (Second Case), naming District.

On August 25, 2010, Student filed a Motion to Consolidate the First Case with the Second Case. On August 30, 2010, District objected to consolidation on the ground that the two cases do not have common issues of fact and law sufficient to warrant consolidation. The parties, through their respective counsel, telephonically argued the motion to consolidate at the August 30, 2010, prehearing conference (PHC) held in the First Case.

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate in 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].)

Here, the First Case and Second Case do not involve common questions of law or fact. Though the two cases have the same parties, the District filed the First Case for the sole purpose of determining the appropriateness of the District's April 2010 neuro-psychological evaluation and, therefore, whether Student is entitled to an independent educational evaluation, at public expense. Student's subsequently filed Second Case focuses on the sufficiency of the services offered by District at the Student's triennial IEP, which was concluded on June 16, 2010. Student maintains that the District failed to provide a FAPE because IEP services do not include a vision therapy program which was recommended by Dr. Lori Nishida. The District evaluation referred to in the First Case did not address

Student's vision needs and therefore is not associated with the Second Case's dispute regarding vision therapy.

Accordingly, the Student's First Case and the District's second case do not involve common questions of law and fact and will not further the interests of judicial economy.

ORDER

Student's Motion to Consolidate is denied.

Dated: August 30, 2010

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings