

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: STUDENT, vs. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2009041007
CAPISTRANO UNIFIED SCHOOL DISTRICT, vs. STUDENT.	OAH CASE NO. 2009031328 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On March 25, 2009, District filed a Request for Due Process Hearing (District's complaint), naming Student as the respondent. This matter was designated as OAH Case No. 2009031328.

After a series of events, by Order dated April 14, 2009, the following dates were set in OAH Case No. 2009031328.

On April 27, 2009, Student filed a Request for Due Process Hearing (Student's complaint), naming District as the respondent. This matter was designated as OAH Case No. 2009041007.

On May 1, 2009, OAH issued a Notice of Due Process Hearing, Notice of Mediation, and Notice of PHC in OAH Case No. 2009041007 which set the following dates: PHC June 12, 2009; DPH June 19, 2009.

On May 5, 2009 District filed a Stipulation to Consolidate OAH Case Number 2009031328 with OAH Case No. 2009041007, and to continue the due process hearing date set in Case No. 2009031328.

APPLICABLE LAW AND DISCUSSION

OAH will generally consolidate matters that involve a common question of law and/or fact and that involve the same parties, and when consolidation of the matters furthers the interests of judicial economy and will obviate potentially inconsistent rulings. While no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, California statutes offer, by analogy, a standard appropriate to special education cases. Government Code section 11507.3, subdivision (a), provides that an administrative law judge “may” order pending administrative proceedings consolidated if they involve “a common question of law or fact . . .” California Code of Civil Procedure section 1048, subdivision (a), applies the same standard to the consolidation of civil cases.

Education Code sections 56502, subdivision (f), and 56505, subdivision (f)(1)(C)(3), require that a hearing be conducted and a decision rendered within 45 days of receipt of the complaint unless an extension is granted. Speedy resolution of due process hearings is mandated by law and continuance of due process hearings may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(1)(C)(3).)

The above-titled cases generally involve a common question/common questions of law or fact arising out of the individualized education program (IEP) dated November 20, 2008.

ORDERS

1. The Stipulated Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. All dates previously set for proceedings for OAH Case No.2009031328 and 2009041007 are vacated
3. The continuance is granted and the following dates are set in the consolidated case: PHC September 4, 2009 at 10:00AM; DPH September 14, 2009 at 9:30AM.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the Student’s complaint in OAH Case No. 2009041007.

IT IS SO ORDERED

Dated: May 07, 2009

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings