

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT on behalf of Student,  vs.  TEMECULA VALLEY UNIFIED SCHOOL DISTRICT	OAH CASE NO. 2009040514
TEMECULA VALLEY UNIFIED SCHOOL DISTRICT.  vs.  PARENT on behalf of Student,	OAH CASE NO. 2009050048
TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,  vs.  PARENT on behalf of Student,	OAH CASE NO. 2009031335  ORDER GRANTING MOTION TO CONSOLIDATE

On March 27, 2009 District filed a Request for Due Process Hearing naming Parent on behalf of Student as respondent. This matter was designated as OAH Case No. 2009031335[First Case].

On April 14, 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. 2009040514[Second Case].

On April 16, 2009 OAH issued an Order granting Consolidation of the First Case and Second Case. The Order provided that all dates in the First Case were vacated and that the 45-day timeline for issuance of a decision will be based on the filing date of the Second Case. Pursuant to the April 14, 2009 Scheduling Order in the second case, a mediation was

scheduled for May 19, 2009, a Pre-hearing conference for May 29, 2009 and a Due Process hearing scheduled for June 9, 2009.

On April 30, 2009 District filed a second Request for Due Process hearing (District's Second Complaint.) This matter was designated as OAH Case No. 2009050048.

On May 5, 2009, OAH issued a Scheduling Order setting Mediation on May 19, 2009, a pre-hearing conference on May 29, 2009 and a Due Process hearing on June 8, 2009.

On May 5, 2009, District filed a Motion to Consolidate its most recent filing, OAH Case Numbers 009050048 (Third Case), with the previously consolidated case governed by OAH Case No. 2009040514. District also requested that when and if consolidated, that the settings and timelines govern as set for in the Scheduling Order dated April 14, 2009, and as affirmed by the order of consolidation dated April 16, 2009.

On May 5, 2009 Student filed a statement of non-opposition to the consolidation and indicated in the statement that his counsel was not available for hearing on June 9, 2009 as scheduled.

## 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.

The above-titled cases generally involve a common question/common questions of law or fact. All three cases involve the appropriateness of District's assessments. In addition, consolidation does further the interests of judicial economy. 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).)

No continuance is addressed at this time because there is no continuance motion pending. Further, the parties did not meet and confer and request a continuance nor provide agreed dates in accordance with proper process. The mere statement that "it should be noted

Student's counsel is scheduled for hearing in another matter on June 8, 9 2009" is not a proper request for a continuance.

### ORDERS

1. District's Motion to Consolidate is granted, and the above-titled cases are consolidated.
2. The hearing dates in the Scheduling order issued April 14, 2009 in Case No 2009040514 shall govern: mediation May 19, PHC May 29 and DPH June 9, 2009 remain as scheduled.
3. The 45-day timeline for issuance of the decision in this consolidated case shall be based on the date of the filing of the complaint in OAH Case No. 2009040514. .
4. All dates previously set in OAH Case No. N2009050048 (third case) are vacated.

Dated: May 07, 2009

/s/

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GLYNDA GOMEZ  
Administrative Law Judge  
Office of Administrative Hearings