

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2010100321
v.	
DOWNEY UNIFIED SCHOOL DISTRICT,	
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DOWNEY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011030557
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On October 6, 2010, Student filed a Request for Due Process Hearing in OAH case number 2010100321 (First Case), naming Downey Unified School District (District).

On March 10, 2011, District filed a Request for Due Process Hearing in OAH case number 2011030557 (Second Case), naming Student.

On March 10, 2011, District filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing date set in Case Number 2010100321 (First Case.)

On March 11, 2011, Student filed an objection to consolidation on the ground that it would unnecessarily delay hearing of Student's case.

On March 14, 2011, during the time scheduled for the prehearing conference in case number 2010100321 (first case), the ALJ heard argument from each party concerning the consolidation motion and the motion to continue.

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].)

Here, the First Case and Second Case involve common questions of law or facts, specifically; both involve provision of a free appropriate public education to Student for the 2010-2011 school year and assessment of the Student. In addition, consolidation furthers the interests of judicial economy because the cases involve substantially the same facts, evidence and witnesses. Accordingly, consolidation is granted.

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).) District's motion to continue the hearing demonstrates good cause for a continuance, based on the need for additional continuous days of hearing and that OAH is dark during the week of March 21, 2011 when the First Case is currently scheduled for hearing.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2010100321 are vacated.
3. District's Motion to Continue is granted. The Mediation in the above-captioned case shall be held on April 4, 2011 at 9:30 a.m., the Prehearing Conference in the consolidated cases shall be held on May 16, 2011, at 10:00 a.m. and the Due Process Hearing in the consolidated cases shall be held on May 31, 2011 at 1:00 p.m., June 1, 2011, June 2, 2011, June 6, 2011, June 8, 2011 and June 9, 2011 at 9:30 a.m.
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 complaint in OAH Case Number 2011030557.

Dated: March 14, 2011

/s/

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings