

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  OXNARD ELEMENTARY SCHOOL DISTRICT,	OAH CASE NO. 2011010384 <b>(Primary)</b>
OXNARD ELEMENTARY SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2010120227  ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On December 2, 2010, District filed a Request for Due Process Hearing in OAH case number 2010120227 (First Case) naming Student as the respondent. On January 10, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011010384 (Second Case) naming District as the respondent. On January 12, 2011, the parties filed a Stipulation to Consolidate First Case with Second Case and to continue the dates for the hearing in the consolidated matter to March 7 through March 10, 2011. On January 13, 2011 the parties executed a waiver of resolution period. In light of the waiver of resolution session and request for dates beyond the 45-day timeline to render a decision in the Second Case, the Stipulation will be considered a motion to consolidate and continue.

*Consolidation*

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 a common question of law or fact, specifically, the issue of Student's placement. The parties stipulate to consolidation.

Additionally, consolidation furthers the interests of judicial economy because both cases will involve the same or similar witnesses and other evidence. Accordingly, consolidation is granted.

*Continuance*

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).) Here, both parties have executed a written waiver pursuant to 34 C.F.R. section 300.510(a)(3)(i) and have stipulated to continue the consolidated matter to the dates now set in First Case, which include the number of days the parties estimate are needed for hearing. Good cause exists to continue the dates set in Second Case.

ORDER

1. The Parties' joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 201101384 (Second Case) are vacated.
3. The Prehearing Conference in the consolidated cases shall be held on **February 28, 2011 at 1:30 p.m.** The Due Process Hearing in the consolidated cases shall be held on **March 7, 8, 9 and 10, 2011** starting at 9:30 a.m. on the first day.
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 2011010384 (Second Case) and the date this continuance request was granted.
5. The parties shall file their executed waivers of resolution session with OAH.

Dated: January 18, 2011

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings