

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2011050803
v.	
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT,	
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SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011060585
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On May 19, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011050803 (First Case), naming District.

On June 10, 2011, District filed a Request for Due Process Hearing in OAH case number 2011060585 (Second Case), naming Student. Also on June 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 2011050803 (First Case). No opposition was received from Student.

*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 provision of FAPE for the 2011-2012 school year at the March 1 and April 8, 2011 IEP. Student did not oppose the motion. In addition, consolidation furthers the

interests of judicial economy because the witnesses and exhibits are identical in both cases. 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).)

District's motion to continue the hearing demonstrates good cause for a continuance. Specifically, a hearing on the consolidated matters will require more than a one day hearing. It can be inferred from Student's lack of opposition that Student does not oppose the dates suggested by District.

ORDER

1. District's Motion to Consolidate is granted.
2. 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 2011050803 (First Case), which shall be the "primary" case.
3. District's Motion to Continue is granted.
4. All dates previously set in OAH Case Numbers 2011050803 (First Case) and 2011060585 (Second Case) are vacated, except for the June 22, 2011 mediation in the First Case, which will apply to the consolidated matters.
5. The consolidated, continued matters are set for due process hearing at District's office on September 12-16, 2011 at 1:30 p.m. the first day, 9:30 a.m. on subsequent days, unless otherwise order. A telephonic, prehearing conference shall occur on September 7, 2011 at 1:30 p.m. A mediation is scheduled for June 22, 2011 at District's office. No further scheduling order will issue.

Dated: June 17, 2011

/s/

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DEBORAH MYERS-CREGAR  
Administrative Law Judge  
Office of Administrative Hearings