BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011051000
PARENT ON BEHALF OF STUDENT, v. SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011090122 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On May 25, 11, District filed a Request for Due Process Hearing in OAH case number 2011051000 (First Case), naming Student. On September 2, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011090122 (Second Case), naming District. On September 16, 2011, District and Student jointly filed a Stipulation to Consolidate the First Case with the Second Case and to continue the due process hearing date set in both cases.

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 First Case seeks an Order determining that assessments of Student conducted by District in October and November, 2010 were appropriate. Student's case raises issues relating to whether District denied Student a FAPE during the 2010-11 and

2011-12 school years. Consolidation furthers the interests of judicial economy because of common issues, witnesses and 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, the first case is set for a pre-hearing conference on September 26, 2011 and multi-day hearing beginning on October 4, 2011. The Second Case is set for mediation on October 7, 2011 and for a one day hearing on October 27, 2011. The Parties have jointly requested a continuance of the mediation and hearing dates in both cases, in order to participate in a meaningful mediation on a mutually agreeable dates and because additional days are needed for the Second Case. The parties proposed mutually agreed upon dates for mediation and the due process hearing in the consolidated matters. Therefore, the parties have demonstrated good cause for a continuance.

ORDER

1. The parties' joint request for consolidation is granted.
2. All dates previously set in OAH Case Number 2011051000 [First Case] are vacated.
3. The Parties' joint request to continue dates in OAH Case Number 2011090122 [Second Case] is granted. The new dates in the consolidated matters are:

Mediation:	October 6, 2011 at 9:30 a.m.
Pre-Hearing Conference:	November 28, 2011 at 1:30 p.m.
Due Process Hearing:	December 8, 12-15, 19 and 20, 2011, first day to begin at 9:30 a.m. unless otherwise ordered

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 2011090122 [Second Case].

Dated: September 20, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings