

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT,

OAH CASE NO. 2011091066

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SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012021053

ORDER GRANTING MOTION TO  
CONSOLIDATE AND DENYING  
MOTION TO SET TRIAL SETTING  
CONFERENCE

On February 21, 2012, the Office of Administrative Hearings (OAH) granted Student's motion to file an amended Request for Due Process Hearing (complaint) in OAH case number 2011091066 (First Case), naming the Santa Monica-Malibu Unified School District (District). On February 21, 2012, OAH set for the First Case, mediation for March 27, 2012, the prehearing conference (PHC) for April 9, 2012, and the due process hearing (hearing) for April 12, 2012.

On February 24, 2012, the District filed a complaint against Student in OAH case number 2012021053 (Second Case). On February 28, 2012, OAH set for the Second Case, mediation for March 8, 2012, the PHC for March 14, 2012, and the hearing for March 21, 2012.

On February 28, 2012, the District filed a Motion to Consolidate the First Case with the Second Case, and to vacate all dates set for both cases and for OAH to set a trial setting conference. On March 1, 2012, Student filed a non-opposition to the consolidation request, but objected to vacating the previously scheduled dates in the First Case.<sup>1</sup>

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<sup>1</sup> Student requested that the March 27, 2012 mediation to commence at noon.

*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].)

The First Case and Second Case involve a common question of law and fact regarding whether the District offered Student a free appropriate public education (FAPE). The District's complaint regarding whether its February 14, 2011 individualized education program (IEP) provided Student with a FAPE and Student's complaint regarding prior IEP offers involve similar evidence and witnesses. Without consolidation, there would be a danger of inconsistent rulings. Therefore, the District's Motion to Consolidate is granted as consolidation furthers judicial economy prevents inconsistent rulings.

*Trial Setting Conference*

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).)

The District requests a trial setting conference because the parties have not been able to agree upon new dates for mediation, PHC and hearing. The District's motion to vacate all existing dates for mediation, PHC and hearing and for OAH to set a trial setting conference is denied as the District did not establish good cause why OAH should vacate existing mediation, PHC and hearing dates.

ORDER

1. The District's Motion to Consolidate is granted.
2. The District's motion for a trial setting conference is denied.
2. All dates previously set in OAH Case number 2012021053 (Second Case) are vacated. The consolidated cases shall proceed on the dates scheduled in OAH Case number 2011091066 (First Case) which are: Mediation for March 27, 2012, at noon; telephonic PHC on April 9, 2012, at 1:30 p.m.; and the due process hearing for April 12, 2012, 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 2012021053 (First Case).

Dated: March 5, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings