

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NOS. 2012020458 and
2012020005

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On January 31, 2012, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Complaint (First Case) that named the Temecula Valley Unified School District (District). OAH assigned the First Case number 2012020005. Currently scheduled in the First Case is a prehearing conference for March 19, 2012, and a due process hearing for March 26, 2012.

On February 13, 2012, Student, through counsel, filed with OAH a second Due Process Complaint (Second Case) against the District. OAH assigned the Second Case number 2012020458. Currently scheduled in the Second Case is a mediation for March 22, 2012, a prehearing conference for April 2, 2012, and a due process hearing for April 9, 2012.

On March 15, 2012, the parties filed with OAH a joint stipulation to consolidate the First and Second Cases, and to continue the due process hearing in the consolidated matters to June 18-21, 2012.

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, and the parties agree that consolidation is appropriate. 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).)

Here, the parties have requested a continuance of the initially scheduled hearing dates in the two cases.

ORDER

1. The motion to consolidate is granted.
2. All dates previously set in OAH Case Numbers 2012020005 and 2012020458 are vacated.
3. The motion to continue is also granted. The parties will inform OAH of a mutually convenient mediation date, if desired. Otherwise, OAH shall issue a scheduling order in the consolidated matters that sets a prehearing conference for Monday, June 11, 2012, at 10:00 a.m., and a due process hearing for June 18, 19, 20 and 21, 2012.
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 2012020458 [Second Case].

Dated: March 15, 2012

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings