

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

TUSTIN UNIFIED SCHOOL DISTRICT.

OAH CASE NOS. 2012030336 and
2012040665

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUING
HEARING DATES

On March 8, 2012, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (Student Complaint) that named the Tustin Unified School District (District). OAH has assigned case number 2012030336 to the Student Complaint. Currently pending in the Student Complaint are a prehearing conference set for April 25, 2012, and a due process hearing set for May 2, 2012.

On April 17, 2012, the District, through counsel, filed with OAH a Request for Due Process Hearing (District Complaint) that named Student. OAH has assigned case number 2012040665 to the District Complaint. Currently pending in the District Complaint are the following dates: a mediation set for May 3, 2012, a prehearing conference set for May 9, 2012, and a due process hearing set for May 17, 2012.

On April 18, 2012, the District filed with OAH a Motion to Consolidate the Student Complaint with the District Complaint. Counsel for Student has not filed a response to this motion.

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 Student Complaint and the District Complaint involve common questions of law or fact, and consolidation furthers the interests of judicial economy. Accordingly, consolidation is granted.

ORDER

1. The District's Motion to Consolidate is granted.

2. All dates previously set in OAH case number 2012030336 (Student Complaint) and OAH case number 2012040665 (District Complaint) are vacated.
3. OAH shall issue a Scheduling Order that sets the following hearing dates in the consolidated cases: a prehearing conference on May 21, 2012, at 1:30 p.m., and a due process hearing on May 29, 30 and 31, 2012. The parties may request OAH to set a mutually convenient date for a mediation.
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 2012040665 (District Complaint).

Dated: April 20, 2012

/s/

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