

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT on behalf of STUDENT, vs. NEWPORT-MESA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2010021056
PARENT on behalf of STUDENT, vs. NEWPORT-MESA UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2009110458 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On November 12, 2009, Student's parent acting on behalf of Student (Student) filed a request for a due process hearing in OAH case number 2009110458, naming the Newport-Mesa Unified School District (District) as the respondent.

On February 24, 2010, Student filed a second request for due process hearing against the District in OAH case number 2010021056.

On April 12, 2010, a telephonic trial setting conference was held. Kathleen Loyer, Esq., appeared on behalf of the Student. Cynthia Yount, Esq., appeared on behalf of the District. The parties stipulated to consolidate these two cases and to continue both matters.

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, both cases involve the same parties, and the parties have stipulated to the consolidation. Consolidation will further the interests of judicial economy and the convenience of witnesses.

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).) As discussed during the telephonic trial setting conference, good cause exists to grant a continuance.

ORDER

1. The parties' stipulated motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2009110458 are vacated.
3. The parties' stipulated request for continuance is granted. A telephonic Prehearing Conference in the consolidated cases shall be held on June 2, 2010, at 1:30 p.m., and the Due Process Hearing in the consolidated cases shall be held on June 14, 15, and 16, 2010, starting at 9:30 a.m. on the first day.
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 2010021056.

Dated: April 12, 2010

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings