

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. 2010110703
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011040675 ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On December 15, 2010, Student filed an Amended Request for Due Process Hearing in OAH case number 2010110703 (First Case), naming District as the respondent.

On April 19, 2011, District filed a Request for Due Process Process Hearing in OAH case number 2011040675 (Second Case), naming Student as the respondent.

On April 19, 2011, District filed a Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in the First and Second Cases. Student does not object to the 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 First Case and Second Case involve common questions of law or fact, specifically whether Individualized Educational Programs dated January 6, 2009, January 21, 2009, March 19, 2009, October 22, 2009, March 25, 2010, July 7, 2010, October 12, 2010, and November 9, 2010 denied Student a free appropriate public education. The First and

Second Cases involve the same parties, witnesses and evidence. Consolidation furthers the interests of judicial economy. 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).)

District's unopposed motion to continue the hearing demonstrates good cause for a short continuance of both cases to schedule a sufficient number of hearing days to allow them to be heard together. Accordingly, continuance is granted.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2010110703 are vacated.
3. District's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on May 25, 2011 at 10:00 a.m. and the Due Process Hearing in the consolidated cases shall be held on June 1-3 and 6-7, 2011 beginning at 9:30 a.m. on the first day and 9:00 a.m. on all other days, 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 2011040675.

Dated: April 25, 2011

/s/

JUNE R LEHRMAN
Administrative Law Judge
Office of Administrative Hearings