

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

FULLERTON SCHOOL DISTRICT.

OAH CASE NOS. 2010120918 and
2011050376

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUANCE
OF HEARING DATES

On December 22, 2010, Parents on behalf of Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (Student Complaint) that named the Fullerton School District (District). OAH assigned the Student Complaint case number 2010120918. Currently scheduled in the matter is a due process hearing set for June 8, 2011.

On May 6, 2011, the District filed with OAH a Request for Due Process Hearing (District Complaint) that named Student. OAH assigned the District Complaint case number 2011050376. Currently scheduled in the matter is a due process hearing set for June 7, 2011.

On June 3, 2011, Student filed a Motion to Continue the hearing dates in both cases based upon the unavailability of Student's counsel who are involved in a hearing in a separate OAH proceeding. On June 6, 2011, Student filed a Motion to Consolidate OAH case numbers 2010120918 and 2011050376.

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 and District Complaints involve a common questions of law or fact. In addition, consolidation will further 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).) Student's motion to continue the currently scheduled hearing dates in case numbers 2010120918 and 2011050376 demonstrates good cause for a continuance.

ORDER

1. Student's Motion to Consolidate is granted.
2. All due process hearing dates currently set in OAH case numbers 2010120918 and 2011050376 are vacated.
3. Student's Motion to Continue is granted. A prehearing conference in the consolidated matters is hereby set for Monday, August 15, 2011, at 10:00 a.m. The due process hearing in the consolidated matters is hereby set for August 22, 23, 24 and 25, 2011. The parties may request OAH for a mutually convenient date to mediate the consolidated cases.
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 2010120918 (Student Complaint).

Dated: June 06, 2011

/s/

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