

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

EAST WHITTIER CITY SCHOOL  
DISTRICT,  
v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011040876

PARENT ON BEHALF OF STUDENT,

v.

EAST WHITTIER CITY SCHOOL  
DISTRICT.

OAH CASE NO. 2011050744

ORDER GRANTING MOTION TO  
CONSOLIDATE AND MOTION TO  
CONTINUE

On April 20, 2011 East Whittier City School District (District) filed a Request for Due Process Hearing in OAH case number 2011040876 (First Case), naming Student.

On May 17, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011050744 (Second Case), naming District.

On May 17, 2011, the parties filed a Joint Stipulation to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in the first case and the second case. The joint request contained a mutually agreed upon hearing date which would set the due process hearing beyond the normal scheduling guidelines and beyond the 45 day time frame set forth in the IDEA.

*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, the First Case and Second Case involve a common question of law and fact and the parties have stipulated to both consolidation and continuance of the matters.

*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).)

The joint motion to continue the hearing demonstrates good cause for a continuance, based on the need to participate in a resolution session and the need for additional consecutive hearing dates.

ORDER

1. The joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011040876 and OAH Case Number 2011050744 are vacated.
3. The joint Motion to Continue is granted. The Mediation in the above-captioned cases shall be held on June 29, 2011 at 9:30 a.m., the Prehearing Conference in the consolidated cases shall be held on August 17, 2011, at 1:30 p.m and the Due Process Hearing in the consolidated cases shall be held on August 29, 2011 at 1:30 p.m., August 30, 2011 at 9:30 a.m and August 31, 2011 at 9:30 a.m. The parties requested two days of hearing for these matters. The ALJ has added an additional day because the parties' estimate of time is not sufficient.
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 2011050744. The 45 day timeline on Case Number 2011050744 was stopped on May 18, 2011 by the granting of the continuance.

Dated: May 18, 2011

/s/

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GLYNDA B. GOMEZ  
Administrative Law Judge  
Office of Administrative Hearings