

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

MONTEREY PENINSULA UNIFIED
SCHOOL DISTRICT,

OAH CASE NO. 2011050598

MONTEREY PENINSULA UNIFIED
SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2011051064

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On May 16, 2011, Student's parent on behalf of Student (Student) filed a request for due process hearing in OAH case number 2011050598 (First Case), naming Monterey Peninsula Unified School District (District).

On May 25, 2011, the District filed a request for due process hearing in OAH case number 2011051064 (Second Case), naming Student and Student's parents.

On June 1, 2011, Student filed an amended due process request (amended complaint) in the First Case.

On June 7, 2011, the parties filed a joint motion to consolidate the First Case with the Second Case and to continue the due process hearing dates.

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 because both involve the appropriateness of the District's assessment and procedural issues related to Student's request for an independent educational evaluation. 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).) In this case, the parties have requested a continuance of the hearing and jointly request the following hearing dates: August 2 – 5 and 22 – 25, 2011. Good cause appears to grant the parties' continuance request.

ORDER

1. The parties' joint motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2011051064 and OAH Case Number 2011050598 are vacated, except for the mediation set for June 14, 2011.
3. The parties' joint request to continue is granted. The new dates are as follows:
Hearing Dates: August 2 – 5 and 22 – 25, 2011
Telephonic PHC: July 18, 2011, at 10:00 a.m.
Mediation: June 14, 2011
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 amended complaint in OAH Case Number 2011050598 [First Case].

Dated: June 10, 2011

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings