

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011051170

v.

CALIFORNIA VIRTUAL ACADEMIES &
SPENCER VALLEY SCHOOL DISTRICT
AND CAPISTRANO UNIFIED SCHOOL
DISTRICT,

CALIFORNIA VIRTUAL ACADEMIES,

OAH CASE NO. 2011100242

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On May 31, 2011, California Virtual Academies filed a Request for Due Process Hearing in OAH case number 2011051170 (First Case), naming Parent on behalf of Student (Student) Student. The First case is scheduled for a telephonic prehearing conference on October 12, 2011 and a due process hearing on October 24, 2011 through October 27, 2011.

On October 5, 2011 Student filed a Request for Due Process Process Hearing in OAH case number 201100242 (Second Case), naming California Virtual Academies, Spencer Valley School District and Capistrano Unified School District as respondents. A scheduling notice has not been issued on the Second case.

On, October 5, 2011, Student filed a Motion to Consolidate the First Case with the Second Case.

On October 7, 2011, California Virtual Academies filed a notice of non-opposition to the motion. Neither Spencer Valley School District nor Capistrano Unified School District filed opposition 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 a common question of law or fact, concerning the provision of a free appropriate public education (FAPE) to Student. There is no opposition to the motion. In addition, consolidation furthers the interests of judicial economy because the cases involve the same facts, witnesses and evidence. 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).)

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2011051170 (First Case) are vacated.
3. 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 2011100242 (Second Case).
4. The consolidated cases shall proceed on the dates scheduled for the Second Case.

Dated: October 10, 2011

/s/

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings