

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  NEWPORT-MESA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011070429
NEWPORT-MESA UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011080720  ORDER GRANTING MOTION TO CONSOLIDATE

On July 11, 2011, Student filed a request for due process hearing in OAH case number 2011070429 (First Case), naming Newport-Mesa Unified School District (District). On August 17, 2011, District filed a request for due process hearing in OAH case number 2011080720 (Second Case), naming Parent on behalf of Student (Student). Also on August 17, 2011, District filed a motion to consolidate the First Case with the Second Case. Parent orally stated that an opposition would be filed, but none was received by OAH.

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 and fact concerning the provision of a free appropriate public education (FAPE) to Student. In addition, consolidation furthers the interests of judicial economy and avoids duplication of proceedings. The cases also involve overlapping witness testimony and documentary evidence, and for these reasons, the consolidation motion 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. District's Motion to Consolidate is granted.
2. All dates previously set in the second case, OAH Case Number 2011080720 are vacated.
3. The consolidated cases shall proceed to prehearing conference on August 31, 2011, and hearing on September 6, 2011, as currently scheduled in the first case, OAH case Number 2011070429.
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 the second case, OAH Case Number 2011080720.

Dated: August 26, 2011

/s/

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GLYNDA B. GOMEZ  
Administrative Law Judge  
Office of Administrative Hearings