

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL
DISTRICT.

OAH CASE NOS. 2011110163 and
2011120391

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND FOR
CONTINUANCE

On November 01, 2011, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (Student Complaint) than named the Fountain Valley School District (District). OAH assigned the Student Complaint case number 2011110163. Currently scheduled in the Student Complaint are a prehearing conference set for December 19, 2011, and a due process hearing set for December 27, 2011.

On December 9, 2011, the District, through counsel, filed with OAH a Due Process Complaint (District Complaint) that named Student. OAH assigned the District Complaint case number 2011120391. Currently scheduled in the District Complaint are a mediation set for December 29, 2011, a prehearing conference set for January 4, 2012, and due process hearing set for January 11, 2012.

On December 12, 2011, the District filed with OAH a Motion to Consolidate and Continue, as concerns the Student and District Complaints. Counsel for Student has not filed a response to this motion.

OAH will generally consolidate matters that involve a common question of law or fact, that involve the same parties, and when consolidation of the cases will further the interests of judicial economy. Here, the Student Complaint and the District Complaint share common questions of fact and law, and consolidation of the cases will result in economies for the parties, the witnesses and OAH. Accordingly, the District's request to consolidate the two cases is granted.

Special education law requires OAH to conduct a due process hearing and issue a decision within a relatively short period of time, unless an extension is granted. (Ed. Code, § 56505, subd. (f)(3).) Here, a continuance is warranted, in part, because the initially scheduled hearing dates in the Student and District Complaints will be insufficient to hear the consolidated matters, and because the hearing dates occur during the Christmas break.

ORDER

1. The District's Motion to Consolidate OAH case number 2011110163 (Student Complaint) with OAH case number 2011120391 (District Complaint) is granted.

2. The District's Motion to Continue is also granted. The currently scheduled mediation and hearing dates in both the Student Complaint and the District Complaint are hereby vacated.

3. OAH shall issue a Scheduling Order in the consolidated cases with the following hearing dates: a mediation set for Thursday, February 23, 2012, starting at 9:30 a.m., at the District offices; a prehearing conference set for Monday, March 5, 2012, at 1:30 p.m.; and a due process hearing set for March 12, 13, 14 and 15, 2012.

4. The decision timeline in this case shall be based upon the OAH case number 2011120391 (District Complaint).

IT IS SO ORDERED.

Dated: December 14, 2011

/s/

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