

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

|                                 |  |
|---------------------------------|--|
| In the Consolidated Matters of: |  |
| PARENT ON BEHALF OF STUDENT,    | OAH CASE NO. 2011110493  |
| v.                              |  |
| BONITA UNIFIED SCHOOL DISTRICT, |  |
| <hr/>                           |  |
| BONITA UNIFIED SCHOOL DISTRICT, | OAH CASE NO. 2011101026  |
| v.                              |  |
| PARENT ON BEHALF OF STUDENT.    | ORDER GRANTING MOTION TO<br>CONSOLIDATE AND GRANTING<br>MOTION TO CONTINUE |

On October 31, 2011, District filed a Request for Due Process Hearing in OAH case number 2011101026 (First Case), naming Student.

On November 15, 2011, Student filed a Request for Due Process Hearing in OAH case number 2011110493 (Second Case), naming District. On November 16, 2011, Student concurrently filed a Motion to Consolidate the First Case with the Second Case. On November 16, 2011, at the Pre-Hearing Conference (PHC) of the First Case, the parties discussed continuing the case, in part, based upon the written and oral argument in support of the consolidation motion. At the PHC, the First Case was continued to March 19, 20, 21, 22, 26 and 27, 2012, and the consolidation motion was taken under submission to allow District the opportunity to submit written opposition.

Subsequently, District did not file a response to the consolidation 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, specifically, the adequacy of District's offer at the July 13, 2011 IEP, the adequacy of its assessments, and its entitlement to conduct additional assessments without parental consent. District does not oppose the motion. Consolidation furthers the interests of judicial economy because there are common witnesses and exhibits in the two cases. 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).)

Student's motion to continue the hearing demonstrates good cause for a continuance, based on its successful motion to consolidate.

#### ORDER

1. Student's Motion to Consolidate is granted effective November 16, 2011, when oral argument was heard at the Pre-Hearing Conference and the matter was taken under submission.
2. Student's Motion to Continue is granted. The Mediation in the above-captioned case shall be held on December 21, 2011 at 9:30 a.m. at the District's offices. The Prehearing Conference in the consolidated cases shall be held on March 7, 2011, at 10:00 a.m. The Due Process Hearing in the consolidated cases shall be held on March 19, 20, 21, 22, 26 and 27, 2012, at 9:30 a.m. on the first day. All dates previously set in OAH Case Number 2011110493 [Second Case] are vacated and continued, effective November 16, 2011.
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 2011110493 [Second Case].

Dated: November 16, 2011

/s/

---

DEBORAH MYERS-CREGAR  
Administrative Law Judge  
Office of Administrative Hearings