

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NOs. 2012020458,
2012020005 and 2012050526

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On January 31, 2012, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Complaint (Student Complaint I) that named the Temecula Valley Unified School District (District). OAH assigned the Student Complaint I case number 2012020005.

On February 13, 2012, Student, through counsel, filed with OAH a separate Due Process Complaint (Student Complaint II) that named the District. OAH assigned the Student Complaint II case number 2012020458. On March 15, 2012, OAH consolidated the two Student complaints. Currently pending in the consolidated matters is a prehearing conference set for June 11, 2012, and a due process hearing set for June 18-21, 2012.

On May 8, 2012, the District, through counsel, filed with OAH a Due Process Hearing Request (District Complaint) that named Student. OAH assigned the District Complaint case number 2012050526. Currently pending in the District Complaint is a prehearing conference set for August 13, 2012, and a due process hearing set for August 20-23, 2012.

On June 5, 2012, the parties submitted to OAH a Joint Stipulation to Consolidate and Request for Continuance of Due Process Hearing, in which the parties seek consolidation of Student Complaint I, Student Complaint II and the District Complaint, and hearing dates for the three cases on August 20-23, 2012.

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, Student Complaint I, Student Complaint II and the District Complaint involve common questions of law or fact, and the parties agree that consolidation of the matters is appropriate. 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).)

Here, the request by the parties to continue the currently scheduled hearing dates in Student Complaint I and Student Complaint II based upon ongoing assessments of Student, and move the hearing dates to the days scheduled in the District Complaint, is reasonable, and granted.

ORDER

1. The Stipulation to Consolidate OAH case numbers 2012020005, 2012020458 and 2012050526 is granted.
2. All dates previously set in OAH case numbers 2012020005 (Student Complaint I) and 2012020458 (Student Complaint II) are vacated.
3. The stipulated Motion to Continue is granted. In the consolidated cases, a prehearing conference is set for August 13, 2012, at 10:00 a.m., and a due process hearing is set for August 20, 21, 22 and 23, 2012.
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 OAH case number 2012020458 (Student Complaint II).

Dated: June 05, 2012

/s/

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