

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL
DISTRICT.

OAH CASE NOs. 2012040895 and
2011110598

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
CONTINUANCE

On November 17, 2011, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (Student Complaint) that named the Long Beach Unified School District (District). OAH assigned case number 2011110598 to the Student Complaint. Currently pending in the Student Complaint are hearing dates from April 30 to May 3, 2012.

On April 20, 2012, the District filed with OAH a Request for Due Process Hearing (District Complaint) that named the Student. OAH assigned case number 2012040895 to the District Complaint. Currently pending in the District Complaint are a mediation set for May 10, 2012, a prehearing conference set for May 16, 2012, and a due process hearing set for May 22, 2012.

On April 24, 2012, the District filed with OAH a Motion to Consolidate and Continue. The motion seeks to consolidate the Student Complaint with the District Complaint. The motion also seeks to continue the initially scheduled hearing dates in case number 2012040895. On the same day, Student filed with OAH an opposition to the Motion to Consolidate, and the District filed a reply to the opposition.

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 Student Complaint and District Complaint involve common questions of law and fact, and consolidation will further the interests of judicial economy because both cases involve many similar witnesses and documents. Accordingly, consolidation is granted.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2011110598 (Student Complaint) and OAH case number 2012040895 (District Complaint) are vacated.
3. OAH shall issue a Scheduling Order in the consolidated cases that sets a prehearing conference for June 4, 2012, at 1:30 p.m., and a due process hearing for June 11, 12, 13 and 14, 2012. The parties may notify OAH regarding an election to mediate on a mutually convenient date.
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 2012040895 (District Complaint).

Dated: April 25, 2012

/s/

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