

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT,

OAH CASE NO. 2012050325

SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012070983

ORDER GRANTING MOTION TO  
CONSOLIDATE; AND GRANTING  
MOTION TO CONTINUE

On May 7, 2012, the Santa Monica-Malibu Unified School District (District) filed a Request for Due Process Hearing (complaint) against Student in Office of Administrative Hearings (OAH) case number 2012050325 (First Case). On May 30, 2012, OAH granted the District's continuance motion for the First Case, setting mediation for September 5, 2012, the prehearing conference (PHC) for September 24, 2012, at 10:00 a.m., and the due process hearing (hearing) for October 1 through 4, 2012.

On August 1, 2012, the District filed a complaint against Student, in OAH case number 2012070983 (Second Case). On August 3, 2012, OAH issued a scheduling order for the Second Case, setting mediation for the PHC for August 22, 2012, at 1:30 p.m., and the hearing for August 28, 2012, and continuing day-to-day.<sup>1</sup>

On August 10, 2012, the District filed a Motion to Consolidate the First Case with the Second Case, and a Motion for a Continuance to set the matter for mediation, PHC and hearing on the dates set in the First Case. Student did not submit a response.

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<sup>1</sup> The August 16, 2012 mediation in the Second Case was cancelled.

*Consolidation*

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].)

The First Case and Second Case involve common questions of law and fact regarding the appropriateness of the District's occupational therapy assessment in the Second Case and the District's offer of services and placement, including occupational therapy, in the March 13, 2012 and March 28, 2012 individualized education program in the First Case, and involve similar evidence and witnesses. Without consolidation, there would be a danger of inconsistent rulings and duplicative evidence. Therefore, the District's Motion to Consolidate is granted as consolidation furthers judicial economy prevents inconsistent rulings.

*Continuance*

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).)

The time-lines in the consolidated matters will be controlled by the Second Case. The District requests that OAH continue the hearing dates in the Second Case to the later scheduled dates in the First Case to permit the parties participate in mediation, and because the parties are available on October 1 through 4, 2012 for hearing. The District established good cause for a continuance based on the previously granted continuance in the First Case. Therefore, the District established good cause to have the consolidated hearing set beyond the August 2012 dates set in the Second Case.<sup>2</sup>

ORDER

1. The District's Motion to Consolidate is granted.

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<sup>2</sup> The District also requested that OAH set an additional day of hearing, October 5, 2012. No decision is made as to the District's request, which the District can raise again at the September 24, 2012 PHC.

2. 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 2012070983 (Second Case).

3. The District's Motion to Continue the dates set for OAH Case number 2012070983 (Second Case) is granted.

4. All dates previously set in OAH Case number 2012070983 (Second Case) are vacated. The consolidated cases shall proceed on the dates scheduled in OAH Case number 2012050325 (First Case) which are: mediation for September 5, 2012, PHC for September 24, 2012, at 10:00 a.m., and hearing for October 1 through 4, 2012.

Dated: August 17, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings