

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT.

OAH CASE NOS. 2012100096 and
2011110175

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On November 2, 2011, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing that named the Newport-Mesa Unified School District (District). OAH has designated this Student Case as case number 2011110175. Currently pending in the Student Case is a prehearing conference set for October 8, 2012, and a due process hearing set for October 15 to 18, 2012.

On October 2, 2012, the District filed with OAH a Request for Due Process Hearing that named Student. OAH has designated this District Case as case number 2012100096. Currently pending in this District Case is a mediation set for October 18, 2012, a prehearing conference set for October 22, 2012, and a due process hearing set for October 31, 2012.

On October 2, 2012, the District filed with OAH a Motion to Consolidate the Student and District Cases. Student does not oppose this request. On October 4, 2012, the parties filed with OAH a stipulated request to continue the consolidated matters, in order to allow certain events to occur with regard to Student's education.

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 two cases involve common questions of law and fact, and the request for 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, there is good cause to grant the stipulated request for continuance of the consolidated cases.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH case number 2011110175 (Student Case) are vacated.
3. The stipulated continuance request is also granted. All dates previously set in OAH case number 2012100096 (District Case) are vacated. The consolidated matters shall be set for mediation and hearing as follows: a mediation on November 27, 2012, at 9:30 a.m.; a prehearing conference on January 14, 2013, at 10:00 a.m.; and a due process hearing on January 28, 29, 30 and 31, 2013. OAH shall issue a Scheduling Order with these dates.
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 2012100096 (District Case).

Dated: October 05, 2012

/s/

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