

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. NEWPORT-MESA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015060258
NEWPORT-MESA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015050246 ORDER GRANTING MOTION TO CONSOLIDATE; ORDER GRANTING CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On May 6, 2015, the Newport-Mesa Unified School District filed a Request for Due Process Hearing in Office of Administrative Hearing case number 2015050246 (District's Case), naming Parent on behalf of Student.

On May 29, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015060258 (Student's Case), naming District.

Also on May 29, 2015, Student filed a Motion to Consolidate Student's Case with District's Case. On June 1, 2015, District submitted a non-opposition to Student's Motion to Consolidate.¹

Request for 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

¹ On May 29, 2015, OAH granted Student's request for continuance of District's Case and set the hearing for September 14, 15, and 16, 2015, dates which were agreed upon by Student and District. In its non-opposition, District requests these same hearing dates for the consolidated matter.

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's Case and District's Case involve a common question of law or fact, including similar questions related to Student's education needs and program. In addition, consolidation furthers the interests of judicial economy because of the commonality of legal and factual issues, documentary evidence and witnesses. Accordingly, consolidation is granted.

Request for 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).)

District in its response requested that OAH set the matter on the dates set in the May 29, 2015 continuance order. As the order granting consolidation designates Student's Case as the primary case, which is presently set for hearing for July 28, 2015, District's request is granted as the parties agreed upon the hearing dates in September 2015.

ORDER

1. Student's Motion to Consolidate is granted.
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 2015060258 (Student's Case).
3. District's motion for continuance is granted and all dates previously set in OAH case number 2015060258 (Student's Case) are vacated.
4. The matter shall be set as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	September 4, 2015, at 10:00 a.m.
Due Process Hearing:	September 15, 16 and 17, ² and continuing day to day, Monday through Thursday, as needed at the

² OAH erroneously granted a hearing date of September 14, 2015, in the continuance order. That date is not available as OAH will be holding its monthly ALJ meeting.

discretion of the Administrative Law Judge. The hearing shall begin at 9:30 a.m. on the first day of hearing, and at 9:00 a.m. on all other days, unless otherwise ordered.

DATE: June 10, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings