

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010100301

v.

BONITA UNIFIED SCHOOL DISTRICT,

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010090697

v.

BONITA UNIFIED SCHOOL DISTRICT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On September 13, 2010, Student filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) case number 2010090697 (First Case) against the Bonita Unified School District (District).

On October 5, 2010, Student filed a Request for Due Process Hearing in OAH case number 2010100301 (Second Case) against the District.

On October 20, 2010, the parties filed a joint Motion to Consolidate the First Case with the Second Case and to continue the due process hearing dates set in both cases.

APPLICABLE LAW and DISCUSSION

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].)

Here, the First Case and Second Case involve a common question of law or fact, specifically, regarding whether the District's offers of services and placement during the 2009-2010 and 2010-2011 school years adequately addressed Student's unique needs. Both parties make this motion to consolidate, and consolidation furthers the interests of judicial economy because the cases will involve the same witnesses and evidence. Accordingly, consolidation is granted.

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 parties' joint motion to continue the hearing demonstrates good cause for a continuance based on the District's counsel's and Student's advocate's unavailability on the initial dates for mediation, prehearing conference and hearing in the initial scheduling orders.

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2010090697 and 2010100301 are vacated.
3. The parties' joint Motion to Continue is granted. The Mediation in the above-captioned case shall be held on November 29, 2010 at 10:00 a.m., the Prehearing Conference in the consolidated cases shall be held on December 1, 2010, at 1:30 p.m., with the Prehearing Conference Statement being due at 1:00 p.m. on November 30, 2010, and the Due Process Hearing in the consolidated cases shall be held on December 13 through 16, 2010, at 1:00 p.m. on the first day.
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 2010100301.

Dated: October 28, 2010

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings