

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NOS. 2011040787 and
2011040526

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On April 14, 2011, counsel for the Capistrano Unified School District (District) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (District Complaint) that named Student. OAH assigned the District Complaint case number 2011040526. Currently pending in case number 2011040526 is a prehearing conference set for May 4, 2011, and a due process hearing set for May 9, 2011.

On April 21, 2011, counsel for Parents and Student filed with OAH a Due Process Complaint (Student Complaint) that named the District. OAH assigned the Student Complaint case number 2011040787. Currently pending in case number 2011040787 is a mediation set for May 26, 2011, a prehearing conference set for June 8, 2011 and a due process hearing set for June 15, 2011.

On April 26, 2011, the parties in the two cases submitted to OAH a stipulated request to consolidate case numbers 201104026 and 2011040787, and to reschedule the mediation and hearing dates in the consolidated matters to mutually agreeable dates.

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 District and Student Complaints contain common questions of law and fact such that joinder of the cases will promote judicial economy for OAH and the parties. Accordingly, 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, the parties stipulated request for OAH to continue and reset the mediation and hearing dates in this matter is based upon good cause, and shall be granted.

ORDER

1. The stipulated request to consolidate OAH case numbers 2011040526 and 2011040787 is granted.
2. All dates previously set in OAH case numbers 2011040526 and 2011040787 are vacated.
3. The stipulated request to continue the mediation and hearing dates in the consolidated cases is granted. The mediation in the consolidated cases is hereby set for May 19, 2011, starting at 9:30 a.m., at the District offices. The prehearing conference in the consolidated cases is hereby set for July 6, 2011, at 10:00 a.m. OAH shall initiate the conference call. The due process hearing in the consolidated cases is hereby set for July 12, 13 and 14, 2011.
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 2011040787 (Student Complaint).

Dated: April 27, 2011

/s/

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