BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>CAPISTRANO UNIFIED SCHOOL DISTRICT. | OAH Case No. 2017030402<br><br>ORDER DENYING MOTION TO CONSOLIDATE |

On October 4, 2016, Student filed a Request for Due Process Hearing (first complaint) with the Office of Administrative Hearings in OAH case number 2016100466, naming Capistrano Unified School District and Community Roots Academy. OAH granted two continuances in the case and the due process hearing is scheduled to begin on April 18, 2017. Student filed a second Request for Due Process Hearing on March 6, 2017 (second complaint) in OAH case number 2017030402, naming only Capistrano Unified School District. Included in Student's second complaint, was a request to consolidate OAH case numbers 2016100466 and 2017030402 (motion), if all parties agree and the consolidated matter maintains the dates set in OAH case number 2016100466.

District filed a response to the motion, agreeing to the consolidation but requesting that the consolidated matter be set for the dates in OAH case number 2017030402. Student filed an opposition to District's response.

## APPLICABLE LAW

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].)

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).)

## DISCUSSION

Student's first complaint alleges issues involving the 2014-2015 and 2015-2016 school years. Student's second complaint alleges issues involving the 2016-2017 school year. Thus, while there may be some overlap, the cases will involve different questions of fact. Moreover, the cases involve different parties, as Community Roots Academy is not named in the second complaint.

OAH has already continued case number 2016100466 two times and Student is opposed to further continuance of that matter. For these reasons, Student's Motion to Consolidate is denied.

## ORDER

1. Student's Motion to Consolidate is denied. OAH case number 2016100466 and OAH case number 2017030402 shall proceed as separate cases.
2. All dates previously set in this matter and OAH case number 2016100466 shall remain as scheduled.

DATE: March 15, 2017

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings