

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016031287
SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016030495
SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016020330  ORDER GRANTING MOTION TO CONSOLIDATE AND DENYING MOTION TO CONTINUE

On February 3, 2016, San Luis Coastal Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016020330 (San Luis Coastal's First Case), naming Student.

On March 9, 2016, San Luis Coastal filed a Request for Due Process Hearing in OAH case number 2016030495 (San Luis Coastal's Second Case), naming Student.

On March 18, 2016, Student filed a Request for Due Process Hearing in OAH case number 2016031287 (Student's Case), naming San Luis Coastal.

On March 25, 2016, Student filed a Motion to Consolidate Student's Case with San Luis Coastal's Cases and to continue the due process hearing dates.

On March 29, 2016, San Luis Coastal filed an opposition to consolidation on the grounds that the cases do not involve common questions of law and fact, and consolidation will cause delays in resolution of San Luis Coastal's Cases and services for Student.

### *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, Student's Case and District's Cases involve the same parties and a common question of law or fact. San Luis Coastal's First Case seeks a determination that its November 20, 2015 offer of placement at a residential treatment facility provides a FAPE to Student because Parent has not consented. San Luis Coastal's Second Case seeks a determination that it may assess Student pursuant to a February 23, 2016, assessment plan despite a lack of parental consent. Student's Case claims that San Luis Coastal failed to include Parent in the decision making process by failing to provide Parent with Student's educational records. Factual findings regarding parental participation in the IEP process since last fall will likely be necessary in all of these issues. The issues presented, while not identical, are sufficiently intertwined that consolidation is appropriate. In addition, consolidation furthers the interests of judicial economy because the matters will likely involve many of the same documents and witnesses. Accordingly, consolidation is granted.

### *Continuance*

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

Student requests a continuance of the due process hearing dates based on the unavailability of Student's educational records and resulting inability to prepare for these cases. Because the due process hearing dates in San Luis Coastal's Cases are vacated by this order, Student will have additional time to prepare for hearing. Accordingly, Student's request is denied without prejudice.

#### ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Numbers 2016020330 (San Luis Coastal's First Case) and 2016030495 (San Luis Coastal's Second Case) are vacated.
3. Student's Motion to Continue is denied without prejudice. All dates previously set in OAH Case Number 2016031287 (Student's Case) shall remain as scheduled.
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 2016031287 (Student's Case).

DATE: March 30, 2016

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*Lisa Lunsford*  
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LISA LUNSFORD  
Administrative Law Judge  
Office of Administrative Hearings