

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. 2011040094

SAN LUIS COASTAL UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2010120052

ORDER GRANTING REQUEST FOR
RECONSIDERATION, AFFIRMING
ORDER TO CONSOLIDATE

On November 29, 2010, San Luis Coastal Unified School District (District) filed a Request for Due Process Hearing in Office of Administrative Hearings (OAH) Case Number 2010120052 (First Case), naming Student. On April 1, 2011, Student filed a Request for Due Process Hearing in OAH Case Number 2011040094 (Second Case), naming District. On April 4, 2011, Student filed a Motion to Consolidate the First Case with the Second Case. On April 7, 2011, the undersigned administrative law judge issued an order consolidating the First and Second Case, stating, among other considerations, that District did not file a response to the motion.

On April 8, 2011, District filed a motion for reconsideration to the consolidation. On April 8, 2011, Student filed a response to District's motion for reconsideration.

APPLICABLE LAW

OAH will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

DISCUSSION

Reconsideration

District contends that OAH's order consolidating the First and Second Case was issued without review of its timely filed opposition to Student's motion to consolidate. District contends that it filed its opposition to Student's motion on April 7, 2011, prior to the close of business.¹ Review of the facsimile date and time stamp confirm that District's opposition to Student's motion was sent on April 7, 2011, prior to the close of business. Therefore, District's opposition was timely filed and its motion for reconsideration is granted on the grounds that its timely opposition was not considered prior to issuing the order consolidating the cases.

Consolidation

District states that its complaint focuses on whether Student's individualized education program (IEP) dated November 15, 2010, provided Student a free appropriate public education (FAPE). Student's complaint includes a history of alleged non-compliance by District from the 2008-2009 school year up to and including the 2010-2011 school year. Student's complaint includes discussion about the IEP team meetings during this timeframe, including the IEP team meeting on November 15, 2010.

District contends Student failed to establish the two cases involve a common question of law or fact or that consolidation will obviate inconsistent rulings because Student did not specify a time period that District denied Student a FAPE. District also contends that its due process hearing in First Case has been pending since December 2010, and that Student has received two continuances. District contends that the procedural history and length of time District has been waiting for a hearing does not further the interests of judicial economy. While a lengthy delay is undesirable, also undesirable is holding two separate due process hearings when they can be heard in a single hearing. Because both cases concern the 2010-2011 school year and the November 15, 2010 IEP offer, combining two hearings into a single hearing furthers the interest in judicial economy in these cases.

On reconsideration, the April 7, 2011 order granting Student's motion to consolidate is affirmed.

ORDER

1. District's request for reconsideration of OAH's April 7, 2011 order granting Student's motion to consolidate is granted.

¹ District also filed a Notice of Insufficiency which OAH ruled on separately.

2. OAH's April 7, 2011 order consolidating the cases is affirmed. The matter will proceed as currently scheduled.

IT IS SO ORDERED.

Dated: April 25, 2011

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings