BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

EARLIMART SCHOOL DISTRICT,

OAH CASE NUMBER 2026010501

OAH CASE NUMBER 2026031274

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, DENYING MOTION TO CONSOLIDATE STUDENT'S TWO CASES, AND GRANTING MOTION TO CONTINUE THE HEARING

MAY 8, 2026

On May 8, 2026, Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Andrea Marcus, Attorney at Law, appeared on behalf of Student. Amanda Cordova, Attorney at Law, appeared on behalf of Earlimart School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

STUDENT'S MOTION TO CONSOLIDATE TWO STUDENT CASES

On May 5, 2026, Student filed a motion to consolidate this case, called Student's Case No. 1, with another case filed by Student on May 5, 2026, called Student's Case No. 2, OAH Case No. 2026050300. Student argues that both cases involve the same Student, the same school district, the same school, overlapping school years, the same records and witnesses, and a common nucleus concerning Student's needs, assessments, individualized education programs, called IEPs, behavioral supports, safety concerns, attendance and ability to access school. Student claims that Student's Case No. 2 is intended to preserve and present updated and distinct issues arising from the factual record and later events, and avoid duplication evidence, inconsistent findings, and unnecessary cost or delay.

On May 8, 2026, District filed a notice of non-opposition, but requests the hearing begin on July 7 through 9, 2026, or later.

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, 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].)

Student's motion to consolidate Student's Case No. 1 and Student's Case No. 2 is denied. Student's motion to consolidate is an improper attempt to amend the prior pleading filed in Student's Case No. 1. Student cannot add claims to Student's Case No. 1 by filing a motion to consolidate Student's Case No. 1 with Student's Case No. 2. Filing a motion to amend is the correct procedure for a party to add claims to an existing pleading, not a motion to consolidate. OAH does not consolidate separate cases filed by the same party. Title 20 United States Code section 1415(o) entitles a student to file a separate due process complaint on an issue separate from a due process complaint already filed, entitling the student to separate hearings, irrespective of whether the new claims arise out of the same operative facts or occurrence at issue in the earlier-filed case.

If Student wanted all his claims heard in one case, he had the option of dismissing Student's Case No. 1 and filing Student's Case No. 2 with all his claims included so they could be heard in one hearing or timely filing a motion seeking leave to amend the complaint in Student's Case No. 1. Having elected to file Student's Case No. 2, without including all his claims in it, Student made the election of having separate hearings. OAH will not consolidate Student's two cases because Student has exercised his choice to two hearings. Student's claims of judicial economy are not persuasive. Student's Motion to Consolidate is denied.

MOTION TO CONTINUE THE DUE PROCESS HEARING

Student's Case was filed on January 13, 2026, and the hearing was scheduled for the first week of March 2026. On February 20, 2026, OAH granted District's unopposed motion to continue the hearing to April 14 through 16, 2026, based on District attorney's medical procedure and calendar conflicts.

On April 8, 2026, OAH granted District's motion to consolidate its case filed on March 17, 2026 with Student's Case No. 1, making Student's Case No. 1 the lead case, and continued the hearing to May 19 through 21, 2026, based on calendar conflicts in earlier-filed matters, instead of June 2 through 4, 2026, the dates requested by District and when Student's attorney stated she was available.

On May 5, 2026, District filed a motion to continue the hearing from May 19, 2026 to July 7 through 9, 2026, on the grounds that District counsel are currently engaged in another OAH hearing which is expected to continue through the hearing dates in this case. In addition, District's representative is not available on May 27 through 30, 2026, and has a pre-planned vacation on June 22 through 26, 2026. District's counsel also has another hearing scheduled for June 2 through 4, 2026, in a matter that has been pending since October 2025, another hearing on June 16 through 18, 2026 in a case pending since November 2025 and a preplanned vacation scheduled for June 24, 2026 to July 2, 2026. Attorney Cordova argued that she is lead counsel and District does not want to be represented by anyone else and Attorney Wood has never been first chair in a hearing. Attorney Wood is also unavailable on the current hearing dates because she will be in hearing on a matter filed in September 2025. District represented that Attorney Marcus stated she intended to file another complaint but was happy to agree to the dates Cordova was available. District claims that if the continuance is not granted, it will be prejudiced.

At the PHC, Attorney Marcus stated that she did not oppose the motion to continue and indicated that she is also counsel in the same ongoing hearing as Cordova. Both counsel made comments which indicated that the ongoing hearing may likely spill over to the week of May 19, 2025, the same day this hearing is scheduled to begin.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

At the outset of the PHC, the ALJ denied the requested continuance because no dates for hearing had been scheduled for hearing in the other matter for May 19 through 21, 2026. However, the parties appeared to believe that the hearing may well extend through and including May 19, 2026. After denying the motion to continue, the ALJ proceeded to discuss the issues for hearing in this case, which took the better of the over two-hour prehearing conference.

Student's PHC statement failed to separately and concisely state each issue Student seeks to have the ALJ decide, as required by Scheduling Orders. The issues listed for hearing combined multiple issues without specifying any time periods, school years, or IEPs at issue, and without specifying whether Student was challenging an IEP offer or the implementation of any particular IEP offered and consented to, without specifying, much less mentioning which goals were at issue, or specifying the services and supports at issue. None of the stated issues were specific enough for the ALJ to understand the claims Student was making, or for the ALJ to apply the "snapshot rule." (*J.W. v. Fresno* (9th Cir. 2010) 626 F.3d 431, 439; *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149, citing *Fuhrmann v. East Hanover Board of Education* (3d Cir. 1993)

993 F.2d 1031, 1041[whether a student was offered or denied a FAPE is determined by looking to what was reasonable at the time the IEP was developed, not in hindsight].)

Despite the ALJs efforts to have Student's counsel identify all the necessary specifics during the lengthy PHC to determine the issues for hearing, Student's counsel was unable to readily or satisfactorily identify the issues for hearing. District's counsel also objected to many of Student counsel's attempts to include claims which District contended were not in the complaint, and thus argued, District had not been put on notice. Student attempted to assert many and varied claims, none of which had been specifically identified in the list of issues, requiring the ALJ to search through the complaints factual allegations during the PHC, while District made many and varied objections to Student's oral attempts to state Student's issues. The ALJ informed Student's counsel that had she properly listed her issues, the difficulties both counsel and the ALJ were having in determining the issues could have been avoided.

The time constraints of the PHC prevented the ALJ from being able to determine Student's claims, or to rule on District's objections at the PHC. Thus, even at the conclusion of the PHC, Student's issues had not been determined, and the ALJ does not have sufficient information or input from the parties to make those rulings prior to the currently scheduled hearing.

In light of all the circumstances, the ALJ has reexamined the initial ruling on the continuance motion made at the outset of the PHC, and finds good cause to grant the continuance based on all of the following: Counsels' representations at the PHC about the likelihood of the other hearing conflicting with the hearing in this case, District counsel's other calendar conflicts on older matters as set forth in the moving papers, but also, Student counsel's failure to properly identify the issues for hearing in her prehearing conference statement, the inability of the ALJ to determine the issues for

hearing during the lengthy PHC, the ALJ requiring Student's counsel to file a new PHC statement clearly and chronologically delineating the issues for hearing with a citation to the allegations in the complaint which Student contends supports Student's argument that the claim was raised in the complaint, and the ALJ's need to understand Student's claims to rule on District's objections.

Accordingly, the request for continuance is granted. However, because this will be the third time the hearing has been moved, OAH does not contemplate any further continuances. If Attorney Cordova may not be available on new hearing dates because of calendar conflicts in other cases, she should take the steps necessary now to ensure another attorney in her firm is available to cover the hearing in this case in that event, so that it can proceed on the new dates. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on June 29, 2026, at 10:00 AM.

DUE PROCESS HEARING will be held on July 7 through 9, 2026.

The prehearing conference, and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge.

New prehearing conference statements are due on June 15, 2026, at 10:00 AM, and except as otherwise provided below, all motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES MUST BE FILED TWO BUSINESS DAYS BEFORE THE SCHEDULED EVENT.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

NEW PREHEARING CONFERENCE STATEMENTS

The parties are ordered to timely file and serve new PHC statements by no later than June 15, 2026 at 10:00 AM, such that the ALJ can determine, among things, Student's claims and whether they are contained in the pleading. Student shall clearly state in each claim, where applicable, whether Student is challenging the IEP offer or the failure to implement the IEP, so that the ALJ understands whether and which "snapshot" in time to apply to Student's claims.

Implementation claims may not be combined with challenges to IEP offers. Those are separate issues and a different set of laws apply to those claims, as compared to inadequate offers. For challenges to IEP offers, Student shall identify each IEP being challenged chronologically. For implementation claims, Student shall identify chronologically each IEP allegedly not implemented as separate issues. For each IEP at issue, Student shall separately state each and all components of the IEP offer being challenged, and each IEP component allegedly not implemented, and when each of those failures occurred, as further explained below.

Among other things, for Issue 1, Student shall separately state each area of suspected disability he contends Student was not timely assessed, and each area he contends he was not timely and appropriately assessed. For each area Student claims he was not timely assessed or appropriately assessed, Student shall identify the period or assessment in which the violation occurred purposes of the application of the snapshot rule. For each assessment area violation, Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46, where each of these allegations was made by Student, such District was on notice of the claims.

For Issue 2, Student shall identify chronologically each IEP at issue, and for each IEP at issue, separately identify which, if any of the offered goals, Student is challenging. For each IEP, Student shall also separately identify every area in which a goal was not offered but should have been offered. For each inappropriate goal offered, and failure to offer any goal at all, Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46 where each of the allegations regarding the goals or goal area was made by Student, if any, such District was on notice of the claims.

For Issue 3, Student shall make clear whether each claim being made is a failure to implement or a failure to offer claim. For each failure to offer claim, Student shall chronologically identify the IEP offer being challenged, and for each IEP separately identify the support or service he contends District did not offer appropriately trained, supervised or credentialed staff. Student shall also by IEP, state the IEP support or service that he contends was not offered according to peer reviewed and research-based interventions to the extent practicable. For each support or service at issue, Student shall separately cite by page and line number each place in the complaint in paragraphs 1 through 46 where each of those allegations was made by Student, if any, such District was on notice of the claims.

To the extent the claim in Issue 3 is a failure to implement violation, Student shall so specify, including identifying each IEP not implemented, and separately for each IEP not implemented, identify the IEP support or service District did not implement with appropriately trained, supervised or credentialed staff. Student shall also by IEP state the IEP support or service he contends was not implemented according to peer reviewed and research-based interventions to the extent practicable. Student shall set forth the period he contends that each IEP support or service was not implemented. For each support or service at issue, Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46 where each of those allegations were made by Student, if any, such District was on notice of the claims.

For Issue 4, Student shall identify what specific documents by title and date that Student contends District failed to translate or provided only limited interpretation. Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46 where each of those allegations were alleged, such District was on notice of the claims.

Regarding Issue 4, Student shall also identify what requested supports were denied and when those denials occurred for which District failed to provide prior written notice. Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46 where those allegations were alleged, such District was on notice of the claims.

Regarding Issue 4, Student shall also identify each service that was changed outside the IEP process and when that change occurred, or the period in which that change occurred. Student shall separately cite by page and line number the places in the complaint in paragraphs 1 through 46 where each of those allegations were alleged, such District was on notice of the claims.

District shall file and serve any written objections to Student's list of issues by no later than June 22, 2026 at 10:00 AM.

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the recording or transcript introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

At the PHC, Student's counsel indicated that there are recordings that are exhibits. Given that the hearing has been continued to July 7, 2026, all recordings which Student intends to rely upon at hearing, shall be transcribed in their entirety and timely served on District along with the recordings at least five business days prior to the hearing. The ALJ may make further orders at the next PHC, as necessary, regarding any recording or transcript.

MOTIONS

Besides the motion to continue and motion to consolidate previously addressed, no other prehearing motions are pending or contemplated by the parties. Any motion that is not timely before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings