

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

RIVERSIDE UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2026090141

OAH CASE NUMBER 2026080159

ORDER FOLLOWING PREHEARING CONFERENCE,
DENYING DISMISSAL OF RIVERSIDE'S COMPLAINT,
CONSOLIDATING CASES, AND CONTINUING PREHEARING
CONFERENCE AND HEARING

SEPTEMBER 9, 2026

On September 4, 2026, Administrative Law Judge Penelope Pahl, 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.

Attorney Leejanice Tobek appeared on behalf of Student. Attorney Jack Clarke appeared on behalf of Riverside Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTIONS:

MOTION TO DISMISS RIVERSIDE'S CASE, OAH CASE NUMBER 2026090141, DENIED

On September 1, 2026, Riverside filed a request for due process hearing, also called a complaint, with OAH, naming Student as respondent. Riverside's case seeks a ruling that its April 27, 2026 IEP offer constituted a free appropriate public education, or FAPE in the least restrictive environment, thus allowing Riverside to implement the April 27, 2026 IEP without parental consent. Student moved to dismiss the case on the grounds that the issue was duplicative of claims made in Student's case.

District chose to argue the motion to dismiss orally, during the prehearing conference. Citing California Education Code § 56346, subd. (f), Riverside argued that, even if the issues did overlap, unless Riverside pursued a request for due process hearing, Riverside would not be entitled to seek an order allowing Riverside to implement the IEP without parental consent.

Student's motion to dismiss Riverside's case was denied. Riverside's filing triggers a different burden of proof for the issues it has asserted. (*Schaffer v. Weast* (2005) 546 U.S. 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387] (burden is on the filing party).) A district filing also offers the opportunity to seek different remedies than a Student's due process request. (20 U.S.C. 1415(f); Ed. Code § 56346, subd. (f).) Therefore, Riverside's case is not duplicative of Student's case.

MOTION TO CONSOLIDATE RIVERSIDE'S CASE WITH STUDENT'S CASE AND CONTINUE THE CONSOLIDATED CASES GRANTED

On July 29, 2026, Student filed a request for due process hearing, OAH case number 2026080159, naming Riverside as respondent. No continuances were granted in Student's case. On September 1, 2026, Riverside filed a request for due process hearing, OAH case number 2026090141, naming Student as respondent. Also on September 1, 2026, Riverside filed a motion to consolidate the two cases. On September 2, 2026, Student opposed the consolidation motion on the grounds that consolidation would result in prejudicial delay.

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].)

These cases have overlapping common questions of law and fact, and will necessarily require the consideration of duplicative witness testimony and documentary evidence. During the prehearing conference, Student's counsel disclosed she was scheduled to be on vacation from September 21, 2026 to November 12, 2026. Therefore, even if Student's case began on September 15, 2026, as scheduled, it is likely a continuance would be necessary to complete Student's case, given the number of issues alleged. Accordingly, the motion to consolidate is granted. The motion to continue is granted for good cause.

1. Consolidation is granted. Following a discussion with the parties a continuance was also granted for good cause.
2. Riverside's case, OAH case number 2026090141, shall be designated the primary case.
3. All dates scheduled in Student's case, OAH case number 2026080159 are vacated.
4. The Prehearing Conference and Hearing in the consolidated cases are continued. All previously scheduled dates in Riverside's case, OAH case number 2026090141 are vacated.
 - a. The Prehearing Conference is scheduled for November 20, 2026 at 10:00 AM.
 - b. The Hearing is scheduled for December 1, 2, and 3, 2026.
5. 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 Riverside's Case, OAH case number 2026090141.

STAY PUT MOTION TO BE REFILED AS A SEPARATE MOTION

During the prehearing conference Student was informed that OAH does not allow multiple motions to be filed as a single document. Student filed a request for Stay Put with Student's Motion to Dismiss Riverside's case. Student's counsel will re-file the Motion for Stay Put. Student's counsel was reminded that a Stay Put motion requires a copy of the last consented to and implemented IEP.

MOTION TO COMPEL TO BE RULED ON SEPARATELY

The parties noted Student's motion to compel documents, which Riverside opposes, is pending. This motion was not argued and will be ruled on separately.

POSSIBLE SECOND MEDIATION REQUEST

The parties agreed to discuss requesting a second mediation to work towards resolving both of the consolidated cases. A joint request with proposed dates must be submitted if the parties wish to schedule a second mediation.

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](https://www.applications.dgs.ca.gov/oah/oahsftweb) 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.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings