BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

DESERT SANDS UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2026050251

OAH CASE NUMBER 2026071007

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE AND ORDER AMENDING COMPLAINT, CONSOLIDATION OF COMPLAINTS AND CONTINUANCE OF DUE PROCESS HEARING.

AUGUST 3, 32026

On July 27, 2026, Administrative Law Judge Judith Pasewark, 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 Allison Hertog appeared on behalf of Student. Attorney Jack Clarke, Jr. appeared on behalf of Desert Sands Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTIONS

DESERT SANDS UNIFIED'S MOTION TO AMEND THE COMPLAINT

On July 22, 2026, Desert Sands Unified filed a Due Process Hearing Request, naming Student. On July 27, 2026, Desert Sands Unified filed a Motion to Amend the Due Process Hearing Request and an amended complaint. Concurrently on July 22, 2026, Desert Sands Unified filed a Motion to Consolidate its complaint with Student's case, OAH Case Number 2026050251. The due process hearing on Desert Sands Unified's initial complaint was initially set for August 11, 2026. The due process hearing on Student's case, OAH 2026050251 was set for August 4, 2026.

On July 24, 2026, Student filed an Opposition to Desert Sands Unified's Motion to Amend and Motion to Consolidate with Student's case, OAH Case Number 2026050251, which was discussed and argued by counsel on July 27, 2026, during this Prehearing Conference on Student's case, OAH Case Number 2026050251.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The motion to amend was filed more than five days prior to the due process hearings for both Student's and Desert Sands Unified's cases. Therefore, it is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines in Desert Sands Unified's amended complaint shall be reset as of the date of this order.

DESERT SANDS UNIFIED'S MOTION TO CONSOLIDATE

On May 1, 2026, Student filed a Request for Due Process Hearing in OAH case number 2026050251, Student's Case, naming Desert Sands Unified.

On July 22, 2026, Desert Sands Unified filed a Request for Due Process Hearing in OAH case number 2026071007, Desert Sands Unified's case, naming Student.

On July 22, 2026, Desert Sands Unified filed a Motion to Consolidate the cases and to vacate the due process hearing date set in Student's Case, OAH case number 2026050251.

On July 24, 2026, Student filed an objection to consolidation on the ground Desert Sands Unified's case untimely. Student's argument is not persuasive. Desert Sands Unified's July 22, 2026, complaint requests that OAH make a determination that Desert Sands Unified may implement Student's 2026 individualized education program, called IEP, without parental consent.

Student's argument that Desert Sands Unified's filing of its complaint was untimely. As seen in the ALJ's ruling granting amendment, Desert Sands Unified filed its complaint and motion to consolidate at least five days before hearing, thereby complying with statutory requirements. Further, Student's contention that Student will be unduly prejudiced by consolidation and continuance, is unfounded. Student

consented to implementation of the 2026 IEP and therefore will voluntarily have an IEP in place at the commencement of the 2026-2027 school year. Further, the continuance requested is a mere 15 days from Student's existing hearing date.

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].)

Here, both cases involve a common question of law or fact, specifically, both cases contain issues which relate to whether the 2026 IEP constitutes a FAPE. In addition, consolidation furthers the interests of judicial economy because both cases involve the same legal issues, witnesses and evidence. Accordingly, consolidation is granted.

1. Desert Sands Unified's Motion to Consolidate is granted.
2. Student's Case is designated as the primary case. All dates previously set in Student's Case, OAH case number 2026050251, are vacated.
3. The Prehearing Conference in the consolidated cases shall be held on August 10, 2026, at 3:00 PM, and the Due Process Hearing in the consolidated cases shall be held on August 18, 19, and 20, 2026, beginning at 9:30 AM on all days, continuing day to day as needed at the discretion of the Administrative Law Judge.

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 Primary Case, OAH case number 2026050251.

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.

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.

Judith Pasewark

Judith Pasewark
Administrative Law Judge
Office of Administrative Hearings