BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OJAI UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025050562

ORDER REGARDING BIFURCATION, GRANTING REQUEST FOR OFFICIAL NOTICE, DENYING MOTION TO AMEND, DENYING REQUEST FOR CONTINUANCE AND DENYING ALL OTHER RELIEF SOUGHT BY STUDENT

OCTOBER 27, 2025

On May 12, 2025, Student through Father filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Ojai Unified School District.

At the prehearing conference on June 23, 2025, OAH granted the parties' request for mediation and continued the hearing. On July 7, 2025, OAH granted Student's motion to amend, and subsequently, set the hearing to begin on August 26, 2025.

THE PRIOR MOTION TO DISMISS AND REQUEST FOR JUDICIAL NOTICE BASED ON MOTHER'S FAILURE TO CONSENT TO THE FILING OF THE ACTION

On July 22, 2025, Ojai filed a Motion to Dismiss Student's Amended Complaint and a Request for Judicial Notice. In the alternative, Ojai asked OAH to bifurcate the hearing to address the threshold issue of standing. District argued Father lacked standing because he did not have unilateral authority to initiate this action. District alleged that the operative joint custody order between Parents dated February 25, 2020, required consent of both Parents for educational decision-making, particularly special education matters and legal actions, and that Father's amended complaint failed to allege he had such consent from Mother. Without such mutual consent, District argued OAH did not have jurisdiction over this matter. District requested that OAH take judicial notice of the February 25, 2020, custody order, which it attached to its motion to dismiss.

On August 1, 2025, OAH denied the motion to dismiss, and denied without prejudice District's request for official notice. District failed to provide OAH with sufficient information to enable it to take official notice. Although District attached a copy of what purported to be the Ventura County Superior Court's February 25, 2020 custody order, it did not provide OAH with a certified copy of the Order, or otherwise properly authenticate the Order by way of a supporting declaration. District's motion was also procedurally improper because it attempted to obtain the equivalent of a summary judgment prior to giving Father the opportunity to develop a factual record at hearing. Moreover, District failed to establish through any competent persuasive evidence that mutual consent of both Parents was lacking. There was also no

competent evidence that the February 25, 2020 Ventura County Superior Court Order was the operative order governing the Parents' educational decision-making authority.

District's request to bifurcate the issue of standing was also denied without prejudice because District failed to file a separate motion requesting official notice and failed to properly cite any authority or otherwise brief the propriety of bifurcation. The OAH Order denying District's motion to dismiss stated that District could renew its request by filing an appropriate separately filed motion to bifurcate on the issue of standing sufficiently in advance of the prehearing conference to be addressed at the prehearing conference.

THE SECOND AMENDED COMPLAINT AND PREHEARING CONFERENCE CLARIFYING THE ISSUES FOR HEARING

Meanwhile, on July 28, 2025, OAH issued an Order determining the amended complaint insufficient as to all claims and gave Student 10 days to file a second amended complaint. Student filed a second amended complaint a day late, which resulted in OAH dismissing his case on August 8, 2025. However, on August 15, 2025, OAH granted Student's motion for reconsideration of the dismissal of his case, vacating the dismissal, deeming the second amended complaint filed as of August 15, 2025, and resetting all the timelines.

On September 22, 2025, OAH held a second prehearing conference, clarifying the issues for hearing, setting a new mediation for October 10, 2025, a third prehearing conference for November 3, 2025, and the hearing to begin on November 13, 2025.

THE CURRENT MOTION TO BIFURCATE AND REQUEST FOR OFFICIAL NOTICE

On October 17, 2025, District filed a motion to bifurcate the hearing on the issue of Father's standing to bring this matter. It argues that the February 25, 2020 custody order, requires both Parents to confer in good faith and obtain mutual consent for decisions concerning court actions and special education. District requests that OAH take official notice of the February 25, 2020 custody order pertaining to Parents issued by the Ventura County Superior Court pursuant to Government Code section 11515. District argues that where standing is disputed, bifurcation protects against jurisdictional defects so that OAH does not proceed on an improperly invoked complaint, relying on Government Code section 11507.3, subdivision (b).

District also relies on Mother's declaration which states that she never consented to the filing of this action and that no meet and confer occurred prior to Father filing the complaint in this case. It argues that Mother's declaration underscores the need for bifurcation and targeted evidentiary findings to determine whether Father had legal authority to invoke OAH jurisdiction. District argues that a preliminary evidentiary hearing regarding standing be limited to: the terms of the custody order; whether Father conferred with Mother in good faith and whether mutual consent was obtained. District argues that resolving this issue first will promote judicial economy, protect all parties' rights, including Mother's rights, and ensure OAH jurisdiction has been properly invoked.

FATHER'S RESPONSE TO THE CURRENT MOTION TO BIFURCATE AND REQUEST FOR OFFICIAL NOTICE

On October 20, 2025, Student filed a response opposing bifurcation and agreed to OAH taking official notice of the February 25, 2020 custody order but only regarding its existence and not for purposes of bifurcation or for deciding standing. Father asks that he be allowed to amend his complaint to add new facts and issues that have arisen. He also seeks a short continuance so that a District-approved independent educational evaluation can be completed and considered, the District can complete its records production, and a new IEP team meeting can be held to discuss a least restrictive placement. Father claims that he has joint legal custody and that District has already recognized his joint custody rights by recently granting an independent educational evaluation. He also argues that at a September 19, 2025 IEP team meeting he objected to District's proposal of a nonpublic school placement and that District has still not produced all Student's educational records including minutes and notes.

Father argues that bifurcation of the hearing would increase the expense and that OAH has already declined to end this case at the pleading stage. He asserts that a custody order's "mutual consent" language does not give a school district veto power over which parent may seek a due process hearing. He argues that special education law defines "parent" and confers on a parent the right to file a due process complaint. He contends that the custody order cannot be used to prevent a parent from filing an action in court. Father asserts that if the issue of consent must be addressed first, it should be decided on the papers, taking into account that District granted Father's request for an independent educational evaluation. Father asserts new facts have arisen justifying amendment of the complaint, including: District's failure to produce raw unedited notes from a September 2024 meeting and the notes from the May and

September 2025 IEPs, District's approval of Father's independent evaluation and the need to address less restrictive placement options at an IEP team meeting. Father argues that a continuance of the hearing will permit time for the independent evaluation to be completed, for obtaining the records, and to allow time for a meeting to discuss placement.

Father asks that District be admonished for referencing family law disputes, and order it treat both Parents neutrally, not condition actions on obtaining consent beyond what special education law requires, be prohibited from filing further motions premised on family-law disputes, and be required to remove or segregate improper family law materials from Student's records and add a notation in the file that such materials do not limit a parent's participation.

DISTRICT'S NON-OPPOSITION

On October 23, 2025, District filed a notice of non-opposition to the continuance request. It also does not oppose the request for leave to amend conditioned on its receipt of the amended complaint. It opposes all other requests in Father's opposition, maintaining that separate motions should have been filed.

DISCUSSION

REQUEST FOR OFFICIAL NOTICE GRANTED

The Government Code provides that administrative tribunals may take official notice of any fact which may be judicially noticed by the courts of this State. (Gov. Code, § 11515.)

The Evidence Code states that judicial notice can be taken of the decisional, constitutional, and public statutory law of California and the United States. (Evid. Code, §§ 451, subd. (a), 452, subd. (a).) Evidence Code section 452 provides that judicial notice may be taken of official acts of the judicial departments of the United States and any state of the United States, and records of any court of record of the United States or of any state of the United States. (Evid. Code, § 452, subd. (c) and (d).)

The trial court shall take judicial notice of any matter specified in Evidence Code section 452 if a party requests it, provides notice, and furnishes the court with sufficient knowledge to enable it to take judicial notice. (Evid. Code, § 453, subd. (a) and (b).)

District has attached a certified copy of a Ventura County Superior Court's February 25, 2020 Order pertaining to Parents' custody of Student. Father does not dispute the authenticity of the custody order. District's request for official notice of the February 25, 2020 Order is granted.

ORDER RE: BIFURCATION

As discussed in the August 1, 2025 OAH Order, the purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.), called the IDEA, is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.)

A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational

placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) OAH does not have jurisdiction to decide claims based on common law tort claims.

Due process hearing procedures extend to the parent or guardian. (Ed. Code, § 56501, subd. (a).) The term "parent" is defined in 34 Code of Federal Regulations part 300.30(a) (2006) and Education Code section 56028 subdivision (a) to include biological parents, among others. When there is more than one biological parent, they are both presumed to be a "parent" unless the biological parent does not have legal authority to make educational decisions for the child. (34 C.F.R. § 300.30(b)(1); Ed. Code, § 56028, subd. (b)(1).)

When a judicial decree or order identifies a specific person or persons as having authority to make educational decisions on behalf of a student, that person is determined to be the parent for purposes of the IDEA. (34 C.F.R. § 300.30(b)(2); Ed. Code, § 56028, subd. (b)(2).) When the parents of a student are divorced, the parental rights established by the IDEA apply to both parents, unless a court order or state law specifies otherwise. (*Assistance to States for the Education of Children with Disabilities and Grants for Children with Disabilities*, 71 Fed. Reg. 46568 (August 14, 2006); see also *Letter to Biondi,* Office of Special Education Programs (OSEP) (October 7, 1997), *Letter to Best*, OSEP (January 8, 1998), and *Letter to Serwecki*, OSEP (February 28, 2005).)

In California, joint legal custody means that both parents share the right and the responsibility to make decisions relating to the health, education, and welfare of a child.

(Fam. Code, § 3003.) When a family court makes an order of joint legal custody, the court must specify the circumstances under which the consent of both parents is required to be obtained to exercise legal control of the child and the consequences of the failure to obtain mutual consent. If the court does not state that the consent of both parents is required on an issue, either parent acting alone may exercise legal control of the child. (Fam. Code, § 3083.)

Absent a court order specifying otherwise, a school district does not have to obtain consent from both parents with legal authority to make education decisions. (See, Fam. Code § 3083; *Letter to Ward,* OSEP (August 31, 2010).) However, in some circumstances, one parent can revoke consent even if the revoking parent is not the one who initially provided consent. (See, 34 C.F.R. § 300.9(c); Ed. Code § 56346, subd. (d); *Letter to Ward*, *supra*; *Letter to Cox,* OSEP (August 21, 2009).) Sometimes, parents must resolve disputes between them privately or through whatever State law processes exist, such as obtaining an appropriate order from a family law court clarifying the decision-making authority of the parents in the event of disagreement between the parents. (E.g., *Letter to Cox*, *supra*.)

If this were a typical case of two parents who met the legal definition of "parent," giving them each authority to make educational decisions on their child's behalf without additional conditions imposed by a custody order, either Parent would have had the right to file for due process and prosecute this case on Student's behalf. But that is not the situation in this case. Although the February 25, 2020 Order states that both Parents share educational decision-making authority for Student, it also specifies certain additional conditions must be satisfied for court actions and special education decisions. It states that both Parents will confer with one another in good faith and that mutual consent of the Parents is required for decisions concerning court actions and special

education. The custody order does not specify what occurs in the event of a disagreement between Parents.

Mother's declaration states she never conferred with Father, that he never contacted her to discuss initiating this action, and that she never authorized this action before OAH. Father has the right to cross-examine Mother and to present evidence on this issue. Thus, as previously determined in the August 1, 2025 Order, whether the February 25, 2020 Order is the operative order governing the Parents' educational decision-making authority and whether the conditions of that custody order have been satisfied for purposes of Father having the authority to pursue this case requires findings of fact by an administrative law judge after the presentation of evidence. Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements), special education law does not provide for a summary judgment procedure.

If Father does not prove at the hearing that he satisfied the conditions of the operative custody order to change the status quo by filing and prosecuting this action, and the IDEA provides no legal mechanism for Father to proceed given the operative custody order's terms and conditions, District may be able to establish that Father does not have the authority to proceed with this case. In other words, a decision on these preliminary issues at hearing may be dispositive of some of the issues, if not the entire case.

An ALJ may take action to promote due process or the orderly conduct of the hearing. (Cal. Code Regs., tit. 1, § 1030.) Government Code, section 11425.20 empowers the ALJ to issue orders to the extent necessary or proper to ensure a fair hearing in the circumstances of the case.

As such, the ALJ finds that deciding first whether Father has the authority to proceed with this case in light of the custody order, including whether Father conferred with Mother in good faith and whether mutual consent was obtained, before any evidence is presented on the remaining issues, will promote due process, the orderly conduct of the hearing, and ensure a fair hearing. Such order of proof will also promote judicial economy and ensure OAH jurisdiction has been properly invoked.

All evidence both parties intend to present on these preliminary issues shall be presented at the hearing first before any other evidence is presented by any party. The parties shall present all evidence on this issue on the first day of hearing, November 13, 2025, and all witnesses called on the first day of hearing shall be confined to only addressing these preliminary issues. This order of proof will be further addressed at the prehearing conference on November 3, 2025.

REQUEST TO AMEND, REQUEST FOR CONTINUANCE, REQUEST TO ADMONISH DISTRICT AND OTHER RELIEF REQUESTED BY STUDENT IS DENIED

Father's request to amend his pleading made as part of his opposition papers and without a proposed pleading is procedurally improper. Motions to amend must be filed as a separate motion, along with a proposed amended pleading. Moreover, if Student wants to raise new claims, he can do that by filing a separate due process complaint. Accordingly, the motion to amend is denied.

Father's request for continuance of the hearing is also denied. A motion for continuance should be filed as a separate motion, not as part of an opposition. Moreover, this case has been pending since May 2025, and Student has failed to

demonstrate good cause for the continuance, failed to propose any continuance dates, and failed to meet and confer with District's counsel.

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).)

The reasons given by Student for a continuance of the hearing are not persuasive in establishing good cause for a continuance of the hearing. Specifically, Student does not explain how either the pending independent educational evaluation or a new IEP team meeting yet to be held to discuss placement is related to any of the 15 issues for hearing enumerated in the September 22, 2025 Order Following Prehearing Conference, or when such evaluation will be completed or IEP team meeting held. Again, if Student wants to raise new claims, he can do that by filing a separate due process complaint.

In addition, District's production of Student's educational file was already addressed during the September 22, 2025 prehearing conference, and in the October 10, 2025 Order Denying In Part and Granting In Part Student's Motion to Compel Production of Documents. According to the discussion at the prehearing conference, some of the documents Student continues to seek (i.e., raw unedited notes) apparently do not or have never existed. Director of Special Education Robin Monson's declaration filed on September 29, 2025 states that all IEP team notes have already been produced. Student fails to demonstrate that educational records in existence have not been

produced, as previously ordered. Moreover, there has been no showing that the alleged failure to produce alleged missing documents impacts Student's ability to proceed to hearing on the 15 issues enumerated in the September 22, 2025 Order Following Prehearing Conference.

Finally, Student's request to admonish District or limit its ability to present argument regarding Father's lack of authority to bring or maintain this case is denied for the same reasons and based on the same authority OAH is changing the order of proof on the preliminary issue of Father's authority to maintain this action. Likewise, all other relief sought by Father as part of his opposition is also denied for the same reasons stated herein.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings