BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015010431
FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014121009 ORDER DENYING STUDENT'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS

On March 30, 2015, Student filed a Motion for Order to Compel Production of Student's Records. In his motion, Student states that since October 28, 2014, his parents have made numerous requests for copies of the following educational records, but that the Folsom-Cordova Unified School District has failed to provide them:

1. Student's November 2014 progress reports for goals 1, 2, 3, and 4 [of his individualized educational program], and progress reports for Student's post-secondary goals, pursuant to Student's January 10, 2014 IEP;

2. Student's fully signed IEP;

3. The speech and language assessment results for speech assessments given in January 2014, including assessments, scores and protocols; and

4. The intervention summaries and recommendations regarding the January 2013 administration to Student of the Behavior Assessment Scale for Children, Second Edition.

Student requests that once Folsom-Cordova be ordered to provide the records as well as a declaration under penalty of perjury once it has provided the records, detailing that it is complied with the requests, and/or the reasons it has been unable to comply. Student also

requests that he be permitted to introduce the requested records into evidence at the due hearing if he so chooses.

Folsom-Cordova filed an opposition to Student's motion to compel on April 3, 2015. It contends that it cannot be compelled to produce the records because there is no pre-trial discovery in due process cases in California. Alternatively, Folsom-Cordova asserts, by way of a sworn declaration of Hunt Lin, the Folsom-Cordova Coordinator for Special Education, that it has already produced all records Student has requested, to the extent that it has been able to locate the records.

APPLICABLE LAW AND DISCUSSION

IDEA grants parents of a child with a disability the right to examine all relevant records relating to their child's "identification, evaluation and educational placement." (20 U.S.C. §1415(b)(1).) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an individualized educational program, or any hearing, or resolution session, and in no case more than 45 days after the request has been made. (See 34 C.F.R. §300.613(a) (2006).[1]) The right to inspect and review education records under this section includes: (1) the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) the right to have a representative of the parent inspect and review the records. (See 34 C.F.R. §300.613(b).) All parents have the right to receive copies of all school records within five business days after parents make a request. (Ed. Code, §56504.)

Here, Folsom-Cordova has demonstrated that it has met, and continues to be willing to meet, its obligation to produce Student's records under the IDEA as stated in Education Code sections 56501, subdivision (b) and 56504.

Student requested progress reports on goals 1, 2, 3, and 4, and the transitional goals of his IEP. However, Student's parents have never consented to the implementation of those goals. Therefore, no progress reports exist for the goals. With regard to the signed IEP's, Folsom-Cordova has already provided signed copies of them to Student's parents. With regard to the request for results of speech and language assessments administered in January 2014 to Student, Folsom-Cordova reported the results of the assessments as part of the progress reports on Student's speech goals. Folsom-Cordova has not been able to locate the protocols for the assessments. Finally, with regard to the Behavior Assessment Scale for Children, Folsom-Cordova has provided Student's parents with the assessment forms. No

[1] All citations to the Code of Federal Regulations are to the 2006 edition.

intervention summaries or recommendations were generated as part of that assessment and therefore do not exist.

Since Folsom-Cordova has complied with all of Student's requests for records to the extent that the records exist, a motion to compel is not necessary and is therefore denied.

To the extent that Student requests permission to introduce the records as evidence in his hearing, his request is premature. Student may list the documents as part of his exhibit list. The administrative law judge assigned to the due process hearing will then decide at hearing which of the documents presented by either party will be admitted into evidence.

IT IS SO ORDERED.

DATE: April 7, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings