BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

UNIVERSITY PREPARATORY ACADEMY.

OAH CASE NUMBER 2026021000

ORDER REGARDING MOTION TO DISMISS BASED ON LACK OF EDUCATIONAL RIGHTS

APRIL 21, 2026

On February 23, 2026, Student through Father filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming University Preparatory Academy, called Charter.

THE CLAIMS AND REMEDIES IN THE COMPLAINT

The complaint alleges four enumerated problems, and within some of them there are multiple claims. Father alleges in the first problem that Charter impeded Parent's participation by failing to provide Student's records until January 2024, holding the March 2024 individualized education program, or IEP, team meeting without Parent, and

predetermining placement. As a remedy for problem one, Father requests compensatory education and reimbursement for costs associated with Student's enrollment in Acellus Academy during the period of Charter's noncompliance.

In the second problem, Father alleges Charter offered an inappropriate placement. As a remedy, Father seeks compensatory education for Student to remedy the academic loss of the 2023-2024 school year.

In the third problem, Father alleges Charter failed to timely convene an IEP team meeting after it became clear the March 2024 IEP was not being implemented and Student was not receiving educational benefit. Father also alleges that Charter failed to hold an IEP team meeting based on Student's non-attendance and independent study model failure, but instead unilaterally determined that Student had to repeat seventh grade. As a remedy, Father seeks compensatory education for Student for the period from March 2024 to the end of the school year.

In the fourth problem, Father alleges Charter denied Student a free appropriate public education, or FAPE, by failing to conduct a manifestation determination before initiating formal truancy enforcement and imposing grade retention. As a remedy, Father seeks a determination that Student's non-attendance was a manifestation of her disability, expungement of Student's truancy record and the requirement she repeat seventh grade, and compensatory education.

THE PREHEARING CONFERENCE

On April 6, 2026, OAH held a prehearing conference and continued the hearing for good cause based on Father's scheduling conflict and the parties' request for the opportunity to mediate the dispute. The hearing is now scheduled for June 2 through 4, 2026. At the PHC, Charter's attorney raised concerns that Father did not hold Student's

educational rights, but there was no motion pending before the ALJ on which to rule, and the parties had not briefed the issue. Charter's counsel stated it intended to file a motion to dismiss well in advance of the next prehearing conference.

DISTRICT'S MOTION TO DISMISS FOR LACK OF STANDING

On April 15, 2026, Charter filed a motion to dismiss, asserting that Father lacks standing to prosecute this case. It asserts Student attended Charter during the 2023-2024 school year and withdrew at the beginning of following school year to attend Student's home school. It asserts that on January 27, 2026, the family law court awarded full and sole custody to Mother, and that when Father filed this case with OAH in February 2026, Father no longer held Student's educational rights. Charter argues that in April 2026, Mother informed Charter's attorney she was unaware of this case filed by Father and Mother said she did not approve of it. Charter argues Mother informed Charter's counsel that Mother had full legal custody of Student. Charter argues that at the April 6, 2026 prehearing conference, Father admitted Mother was awarded full legal custody in January 2026, and that the custody order was still in effect. The motion is supported by a declaration from Mother and Charter's counsel, with attached exhibits.

FATHER'S WITHDRAWAL OF CLAIMS AND REMEDIES

On April 20, 2026, Father filed a partial withdrawal of Student's claims, specifically, the entirety of Issue 4 and the resolutions. Father also withdrew the request for compensatory education from Issues 1 through 3. Thus, Father appears to want to only pursue problems one through three to obtain a determination that Charter violated the law and the remedy of reimbursement for Father's funding of Acellus Academy, which Father asserts are claims retrospective in character, and address violations that

occurred during the 2023-2024 school year when Father held full, unrestricted parental and educational rights regarding Student.

FATHER'S OPPOSITION TO CHARTER'S MOTION TO DISMISS

On April 20, 2026, Father filed an opposition to the motion to dismiss for lack of standing, supported by a declaration. Father argues that both the January and March 2026 orders are temporary pending the federal court mediation now set for May 1, 2026, that will have expired by June 2, 2026 when this case is scheduled for hearing Father argues that the March 2026 custody order confirms Father's rights to access school records and consult with professionals which Father asserts is at the core of the case. Father also argues that a temporary family court order is not a final judicial decree and that parents hold independent rights under the Individuals with Disabilities Education Act, or IDEA, which survive any order not expressly extinguishing them. Father claims Charter's cases are either distinguishable or not binding. Father claims that the violations he is pursuing pertain to the time he had parental status, during the 2023-2024 school year.

Father argues this issue was addressed in another OAH Case, specifically, OAH Case No. 2025101092, where the Administrative Law Judge in that case dismissed Father's claims against another school district, but recognized parents still have standing to pursue reimbursement claims even after an educational rights transfer. Father states this order of dismissal is on appeal.

Father argues that Mother transferred Student to Charter at the start of the 2023-2024 school year without informing Father and Charter accepted Mother's representation that she was the sole Parent. As a result, Father contends, Charter refused to share Student's records with Father, refused to communicate with him about

Student's education, and he never received notice of any IEP team meetings during the 2023-2024 school year. Father claims that he ultimately obtained a family court order in January 2024 recognizing Father had joint legal custody before Charter would engage with him. Father argues that violations alleged against Charter in this case all occurred before the January 2026 custody order was entered. Father alleges he had to file this case before the federal court mediation took place on May 1, 2026 to protect the statute of limitations.

Father argues that the January 2026 custody order takes away prospective educational decision-making authority on a temporary basis, pending mediation, but that the order said nothing about access to education records, or notice of IEP team meetings, or prior written notice, or this proceeding. As such, Father argues, the custody order cannot extinguish Father's interests regarding those matters. Father also claims that the order cannot retroactively displace claims that accrued before the orders at issue were entered. Father also makes various other claims about the custody order as a basis for requesting that OAH narrowly construe the custody orders.

APPLICABLE LAW

The purpose of the IDEA (20 U.S.C. § 1400 et. seq.), 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.)

The IDEA conveys rights to parents and children, and grants parents independent, enforceable rights. (*Winkelman v. Parma City School Dist.* (2007) 550 U.S. 516, 529, 533 [127 S.Ct. 1994] (*Winkelman*); see also *Latynski-Rossiter v. District of Columbia* (D.C. 2013) 928 F.Supp.2d 57, 62 [parents have standing to pursue reimbursement claims

under the IDEA, even after the student has reached the age of majority and IDEA rights have transferred to the student].) Because parents enjoy rights under the IDEA, they are entitled to prosecute IDEA claims on their own behalf. (*Winkleman*, *supra*, 55 U.S. at p. 518.)

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).)

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* (October 7, 1997) Office of Special Education Programs (OSEP), *Letter to Best* (January 8, 1998) OSEP, and *Letter to Serwecki*, (February 28, 2005) OSEP.)

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.) A court can grant joint legal custody without granting joint physical custody. (Fam. Code § 3085.) 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.)

However, "sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child. (Fam. Code, § 3006.)

An order for joint custody may be modified or terminated upon petition of one or both parents or on the court's own motion. (Fam. Code, § 3087.) An order for the custody of a minor child may be modified at any time to an order for joint custody. (Fam. Code, § 3088.)

DISCUSSION

Here, Father, on behalf of Student alleges in his complaint that he is Student's parent. As stated in the authority cited above, parents have shared educational rights, unless a custody order specifies otherwise.

Here, the January and March 2026 custody orders specify otherwise. The January 2026 custody order states that pending the [federal court] mediation, which is apparently now scheduled for May 1, 2026, Mother shall have sole legal custody. The March 2026 custody order is difficult to read because of the way it has been uploaded

by Charter but appears to state that Mother was awarded "legal custody" of Student "per prior court order," and that Mother is the "person who decides about the [Student's] health, education and welfare." That custody order also states that both custodial and noncustodial parent have the right to access school records and information about Student and consult with professionals who are providing services to Student. Thus, Father's rights are limited by the March 2026 custody order.

As noted above, the IDEA conveys to parents certain independent enforceable rights, such as the right to pursue reimbursement claims regardless of their current standing as a holder of a student's educational rights. After Charter filed its motion to dismiss, Father voluntarily withdrew some of the claims in the complaint, including the request for compensatory education as a remedy for Issues one through three, the entirety of the claim in Issue 4 and the concomitant remedies Father initially sought for the alleged violations in problem 4. It appears Father dismissed these claims and remedies in an effort to defeat the motion to dismiss for lack of standing.

Charter's motion to dismiss fails to address the issue of standing as it relates to a parent's independent enforceable rights. Charter also apparently was unable to anticipate Father's arguments made in the opposition or that Father would dismiss some of the claims he made in the complaint.

As such, OAH requires further briefing to rule on the motion. Charter is ordered to file a reply brief addressing the arguments made in Father's opposition, including but not limited to, whether the orders giving Mother sole legal custody will expire on May 1, 2026. In its brief, Charter shall also address whether it is Charter's contention that Father lacks standing to pursue any of the remaining claims or remedies, identify which claims or remedies it contends Father lacks standing to pursue, and explain why Father does not have an independent right to pursue them on his own behalf given the language of

the March 2026 custody order regarding the rights of the noncustodial parent. Charter shall include and address in its brief any applicable authority, including the case authority cited in Father's opposition. Charter shall also identify if there are any claims or remedies which it is not challenging Father's standing to pursue.

Charter's reply brief shall be filed and served by April 28, 2026, by 4:00 PM. Father may, but is not required to, file and serve a surrebuttal of no more than three pages by May 1, 2026, by 4:00 PM.

Exhibit P2 filed by Father in support of his opposition to the motion to dismiss is unreadable. If Father would like Exhibit P2 considered, Father shall file with OAH and serve a legible copy by April 24, 2026, at 10:00 AM.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings