BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024110896

ORDER DENYING MOTION TO QUASH SUBPOENA DUCES TECUM

FEBRUARY 10, 2025

On November 27, 2024, Student, filed a request for due process, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Compton Unified School District as respondent. On January 27, 2025, OAH granted Student's request to amend the complaint. As a result, timelines were re-set, and a new scheduling order was issued.

On January 31, 2025, Student issued a subpoena duces tecum to Compton Unified School District. The subpoena sought:

1. Any and all internal communications among District staff concerning Student's Individualized Education Program ("IEP"), the offer of a free and

appropriate public education made to Student via his IEP, the development of Student's IEP, or implementation of Student's IEP;

2. Any and all communications between District staff and Rossier Park School staff concerning Student's IEP, the offer of a free and appropriate public education made to Student via his IEP, the development of Student's IEP, or implementation of Student's IEP;
3. Any and all communications between District staff and Speech and Language Development Center staff concerning Student's IEP, the offer of a free and appropriate public education made to Student via his IEP, the development of Student's IEP, or implementation of Student's IEP;
4. Any and all communications between District Staff and Del Sol High School staff concerning Student's IEP, the offer of a free and appropriate public education made to Student via his IEP, the development of Student's IEP, or implementation of Student's IEP; and
5. Any and all communications and records, excluding those available to Student via a records request made pursuant to California Education Code section 56504, considered by District staff in developing Student's IEP or making its offer of a free and appropriate public education to Student.

Student's subpoena defined "communications" as "written communication, electronic communication, facsimile communication, and/or notes regarding verbal communication." Compton objected to the subpoena on the grounds that it was overbroad and was an attempt to obtain impermissible discovery.

APPLICABLE LAW

A party to a due process hearing under the Individuals with Disabilities in Education Act has the right to present evidence and compel the attendance of witnesses

in "a hearing conducted pursuant to subsection (f) or (k)" of section 1415 of title 20 of the United States Code. (20 U.S.C. § 1415(h); see also Ed. Code, § 56505, subd. (e).)

In special education proceedings in California, "[t]he hearing officer shall have the right to issue Subpoenas (order to appear and give testimony) and Subpoenas Duces Tecum (order to produce document(s) or paper(s) upon a showing of reasonable necessity by a party)." (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This requirement mirrors that required by Code of Civil Procedure section 1985, subdivision (b), which requires:

> A copy of an affidavit shall be served with a subpoena duces tecum . . ., showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

The good cause requirement is met by a factual showing of why the requested documents or things are material and relevant to the litigated issues. (*Johnson v. Superior Court* (1968) 258 Cal. App.2d 829, 835-836; see also *Seven Up Bottling Company v. Superior Court* (1951) Cal. App.2d 71, 77.)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions, Office of Administrative Hearings, referred to as OAH relies by analogy on the relevant portions of the Code of Civil Procedure. Code of Civil Procedure section 1987.1 provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders.

ATTEMPT TO OBTAIN IMPERMISSIBLE DISCOVERY

Compton cites to a few broad legal concepts regarding how the Family Educational Rights and Privacy Act or FERPA, defines documents and limits examination of records pertaining to "educational personnel ancillary thereto" without any analysis regarding how Student's subpoena seeks impermissible discovery under these concepts. Compton also cites to broad subpoena limitation concepts citing to prior OAH orders, again without demonstrating how those prior cases should be persuasive on the issues in this case. Orders and decisions rendered in special education due process hearing proceedings are not binding authority in subsequent proceedings. (Cal. Code Regs., tit. 5 § 3085.)

REASONABLE NECESSITY FOR THE RECORDS

Compton's primary argument is that that the subpoena duces tecum should be quashed because it fails to make the requisite showing of reasonable necessity for the requested documents (*Johnson v. Superior Court* (1968) 258 Cal. App.2d 829, 835-836; see also *Seven Up Bottling Company v. Superior Court* (1951) Cal. App.2d 71, 77.)

Student's declaration states that Student anticipates the documents will demonstrate Compton's rationale for the IEP offers Student alleges are deficient. Specifically, Student seeks information regarding Compton's consideration, or disregard, of his needs in creating the IEP. Student also anticipates the documents will reveal that Compton failed to implement Student's IEP.

Compton contends the description of the documents sought is overly broad and vague. Compton points out that Rossier Park School, Speech and Language Development Center and Del Sol High School are nonpublic schools that are not under the control of the district.

Student's complaint alleges that Student began school in the district in January 2023. According to the complaint, Student was placed in the Speech and Language Development Center in April 2023. Student was enrolled at Del Sol at the beginning of the following school year. Following Del Sol, Student was placed temporarily in Compton's Adult Transition Program. The complaint alleges he now attends Rossier Park School.

Student seeks, per the communication definition, writings, emails, faxes, and notes in Compton's possession, as Compton is the only entity served with the subpoena, internally among District staff who discussed the development of Student's IEP, or the implementation of Student's IEP; and communications between Compton and the nonpublic schools Student attended, regarding the development of his IEP or the implementation of his IEP. This is a targeted request that should involve only those on the IEP team and additional service providers. This is a limited number of people, and an inquiry into specific topics.

Compton failed to establish that the subpoena was either overbroad or that it sought impermissible discovery. Compton's motion to quash is denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings