BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010546

ORDER DENYING STUDENT'S MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS

APRIL 8, 2025

On, January 21, 2025, Student filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District as respondent. On January 30, 2025, OAH granted the parties' joint request for mediation and continuance of the hearing, scheduling the prehearing conference for April 15, 2025 and hearing to begin on April 29, 2025.

On, March 28, 2025, Student filed a "Motion for an Order Directing Compliance with Subpoena for District-Employees at Hearing and Compliance with a Subpoena Duces Tecum to Produce Records and Things Under Oath At Hearing." On April 2, 2025,

Los Angeles opposed Student's motion. On April 7, 2025 Student filed a reply to Los Angeles' opposition.

Student seeks an order compelling Los Angeles to comply with subpoenas for Los Angeles Unified School District employees to testify at hearing. Student also asks that OAH order compliance with subpoenas *duces tecum.* For a variety of reasons, the requests will be denied.

SUBPOENAS HAVE NOT BEEN SERVED ON THE WITNESSES

The exhibits attached to Student's moving papers establish that Student has not served either the subpoenas for testimony, or the subpoenas duces tecum, on the desired witnesses. Instead, Student asserts his counsel personally delivered the subpoenas to Los Angeles' due process unit employees, Patricia Tamez-Simplicio and Diana Massaria, at their business address. Student offers no legal authority supporting the conclusion that serving subpoenas that are directed to other people, on employees of Los Angeles' due process unit, constitutes service on the witnesses. Student offers no evidence that either Patricia Tamez-Simplicio or Diana Massaria agreed to accept subpoena service on the witnesses' behalf.

MOTION IS PREMATURE

The hearing in this case is scheduled to begin on April 30, 2025. A prehearing conference is scheduled for April 18, 2025. In general, there is no right to prehearing discovery in administrative proceedings under the Individuals with Disabilities Education Act, also called the IDEA. (20 U.S.C. § 1400 et seq.)

Both the IDEA and California special education law provide parties with the right to present evidence and compel the attendance of witnesses at "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); Ed. Code, § 56505, subd. (e).) However, neither state nor federal law confer the right to prehearing discovery. Parents may request the opportunity to review educational records regardless of whether a request for due process is pending. (Ed. Code § 56504; 34 C.F.R. § 300.501(a).)

Student is entitled to receive copies of any documents, and a list of witnesses Los Angeles intends to present at the due process hearing, at least five days prior to the hearing. (Ed. Code § 56505, subd. (e)(7).) Student has failed to offer any legal authority mandating that Los Angeles make any disclosures of witnesses or documents, outside the normal educational record request process, prior to that date. Nor has Student offered legal authority mandating Los Angeles' assistance in facilitating Student's desire to subpoena witnesses.

As the overarching procedural flaws regarding the subpoenas are dispositive of Student's motion, this order does not address any deficiencies in the individual subpoenas or supporting declarations of necessity.

ORDER

1. Student's motion to compel compliance with subpoenas for testimony served on Patricia Tamez-Simplicio and Diana Massaria on March 26, 2025, is denied.
2. Student's motion to compel compliance with subpoenas duces tecum served on Patricia Tamez-Simplicio and Diana Massaria on March 26, 2025, is denied.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings