BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022070072

NOTICE OF NO ACTION REGARDING OBJECTIONS TO DISTRICT'S SUBPOENA DUCES TECUM AND ORDER DENYING REQUEST TO ENFORCE COMPLIANCE

AUGUST 30, 2022

On June 24, 2022, Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Los Alamitos Unified School District. On August 22, 2022, Los Alamitos filed a copy of a subpoena duces tecum it issued to the Custodian of Records for Prentice School, along with copy of an August 15, 2022 Notice to Consumer sent to Student. On August 29, 2022, Los Alamitos filed an opposition to Prentice's objections to the subpoena duces tecum. Los Alamitos asserts that it received an objection from Prentice to the subpoena. OAH has not received any objection to the subpoena nor a motion seeking to quash the subpoena duces tecum. As there is no

pending motion, OAH will take no action to overrule any objections to the subpoena duces tecum, or to otherwise quash or modify it.

REQUEST TO ORDER PRENTICE TO COMPLY WITH THE SUBPOENA

Los Alamitos requests that OAH order Prentice's custodian of records to comply with the subpoena duces tecum. Los Alamitos provided no legal authority that permits OAH to make such an order.

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 at the hearing. (20 U.S.C. § 1415(h); see also Ed. Code, § 56505, subd. (e).) The provisions of the Administrative Procedures Act governing subpoenas do not apply to special education hearings. (Cal. Code Regs., tit. 5, § 3089.) However, the hearing officer in a special education due process proceeding may issue subpoenas or subpoenas duces tecum upon a showing of reasonable necessity by a party. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).)

A subpoena can be enforced by seeking a contempt order from the Superior Court in the county where the hearing is held. Because obeying a subpoena is required by state law, they cannot be enforced by OAH in the administrative process. (Gov. Code § 11455.20.)

OAH does not have the authority to enforce the subpoena duces tecum issued by Los Alamitos. Accordingly, Los Alamitos' request for OAH to order the custodian of

records for Prentice School to comply with the subpoena duces tecum is denied.

IT IS SO ORDERED.

Theresa Ravandi

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Administrative Law Judge

Office of Administrative Hearings