BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT AND RESEDA CHARTER HIGH SCHOOL.

OAH CASE NUMBER 2019030607

ORDER DENYING REQUEST FOR JUDICIAL NOTICE WITHOUT PREJUDICE

On August 20, 2019, Student filed with the Office of Administrative Hearings, often called OAH, a request for judicial notice pursuant to California Evidence Code Section 452, subdivisions (b), (c), and (d). Student requests that OAH take judicial notice of 13 exhibits he intends to include in his evidence binder for the due process hearing. Student asserts he obtained these documents from the Los Angeles Unified School District's and Reseda Charter High School's websites and that they are public records of official acts published on a government website and thus subject to judicial notice pursuant to section 452 of the Evidence Code, subdivisions (b) and (c).

Student also seeks judicial notice of two Los Angeles County Superior Court orders from 2016 and 2017 pursuant to section 452 of the Evidence Code, subdivision (d). Student represents that the 2016 order found that it was in his best interest to

attend Westmark School and that the 2017 order granted Mother sole legal custody. OAH has not received any response from Los Angeles or Reseda.

APPLICABLE LAW

Judicial notice is generally called official notice when taken by an administrative tribunal. (See Gov. Code, § 11515.) No specific statute or regulation governs the taking of official notice in special education due process proceedings. For guidance in such situations, OAH often looks to the California Evidence Code. Section 452 of that Code allows, in part, the taking of judicial notice of regulations and legislative enactments issued by any public entity, official acts of the legislative, executive, and judicial departments of any state, and the records of any court. (Evid. Code, § 452, subds. (b), (c), & (d).) Section 452, subdivision (h) further allows judicial notice of, "Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (Evid. Code, § 452, subd. (h).) The party seeking judicial notice has the burden of furnishing sufficient information to enable the court to take judicial notice of the requested matters. (Evid. Code, § 453, subd. (b).)

Evidence Code Section 350 states, "No evidence is admissible except relevant evidence." Relevant evidence is defined as evidence "having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210.) Further, "any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions." (Govt. Code §11513, subd. (c).) Although a court may judicially notice a variety of

matters, only relevant material may be noticed. (*Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556, 569.)

DISCUSSION

Student has failed to meet his burden of providing sufficient evidence of the matters he seeks to have judicially noticed. He has not attached any copies of the referenced items, and has only provided a description of the two court orders. Student has failed to provide any showing as to the importance or relevance to the matters to any of the issues at hearing. Furthermore, evidentiary requests are best determined by the administrative law judge at the time of the due process hearing. Accordingly, Student's request for judicial notice is denied without prejudice.

ORDER

Student's request for judicial notice is denied without prejudice.

DATED: August 29, 2019

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Theresa Ravandi
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Theresa Ravandi
Administrative Law Judge
Office of Administrative Hearings