BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND

MURRIETA VALLEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025051034

OAH CASE NUMBER 2025050648

ORDER DENYING FATHER'S MOTION FOR AN OPEN HEARING

JULY 28, 2025

On May 14, 2025, Murrieta Valley Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2025050648, naming Student. The case filed by Murrieta Valley Unified School District is called District's Case.

On May 27, 2025, Father on behalf of Student filed a Request for Due Process Hearing in OAH case number 20251034, naming Murrieta Valley. The case filed by Student is called Student's Case.

On June 2, 2025, OAH consolidated District's Case with Student's Case, designating Student's Case as the lead case, and continuing the hearing. The hearing is currently set for August 26 through 29, 2025.

On July 18, 2025, OAH held a prehearing conference before Administrative Law Judge Ted Mann, which both Parents attended. The Administrative Law Judge is called an ALJ. Father requested that an open hearing. Mother opposed the request and requested a closed hearing. ALJ Mann took the request for an open hearing under submission. The ALJ issued a written order dated July 18, 2025, documenting Mother's disagreement with Father's open hearing request.

On July 21, 2025, Father filed a motion to have the hearing opened to the public. Father argues that the hearing should be open to the public because Student's health issues relevant to this case have already been released to the public and public knowledge of Student's conditions will not negatively impact her. Father asserts that information related to Student's home address is not something Student's intends to discuss. Father also believes the benefits of an open hearing outweigh the detriment of a closed hearing, including the benefits of allowing friends and family to attend and so news organizations can attend to expose District's corruption. Neither District nor Mother filed opposition to Father's motion.

APPLICABLE LAW AND DISCUSSION

The Individuals with Disabilities Education Act affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6), (f)(1)(A); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, 56505; Cal. Code Regs., tit. 5, § 3082.)

The due process hearing procedures extend to the parent or guardian. (Ed. Code § 56501, subd. (a).) In addition to the rights prescribed by subdivision (b) of Education Code section 56501, the parent or guardian has the right to open the hearing to the public. (Ed. Code § 56501, subd. (c)(2).) Parents involved in hearings must be given the right to open the hearing to the public. (34 C.F.R. § 300.512(c)(2).)

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 "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).)

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.) 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.)

Absent a court order specifying otherwise, a school district does not have to obtain consent from both parents with legal authority to make education decisions. (See, Fam. Code § 3083; *Letter to Ward* (August 31, 2010) Office of Special Education Programs (OSEP).) However, in some circumstances, one parent can revoke consent even if the revoking parent is not the one who initially provided consent. (See, 34 C.F.R.

§ 300.9(c); Ed. Code § 56346, subd. (d); *Letter to Ward*, *supra*, *Letter to Cox* (August 21, 2009) OSEP.)

Consistent with the law, special education hearings are closed to the public unless a parent requests the hearing be open to the public. Due process hearings involve children and their confidential educational history and information, which can include medical and health information protected by Health Insurance Portability and Accountability Act of 1996, known as HIPPA.

Assuming there are two parents who meet the legal definition of "parent" with the authority to make educational decisions on a student's behalf, either parent has the right to request an open hearing. However, the current dispute is not merely a situation where one Parent has requested an open hearing. Here, Parents disagree about it being open. Father requests an open hearing and Mother requests a closed hearing.

Given the current state of the record, OAH lacks the information necessary to grant Father's request. There has been no showing by Father or Mother as to whether there exists any custody order or other agreement, and what the terms of any such order or agreement provide regarding Parents' respective educational decision-making authority as it pertains to Father's open hearing request. The Parents did not address whether there is any custody order or agreement which requires the agreement of both Parents, or only requires the consent or agreement of Father, or specifies what occurs in the event of a disagreement between Parents.

Assuming a scenario where both Parents hold co-extensive educational authority, the IDEA does not provide a mechanism for parents to resolve disputes with one another that do not involve conduct by the school district. Such disputes must be settled privately or through whatever State law processes exist, such obtaining an

appropriate order from a family law court clarifying the decision-making authority of the parents in the event of disagreement. (E.g., *Letter to Cox*, *supra*.) Then, OAH might have the information necessary to reach the merits of Father's motion. However, at this juncture, Father's motion for an open hearing is denied without prejudice.

Finally, Father's request for an open hearing is at least, in part, motivated by his desire to have family or friends present at the hearing to provide support. Even if the hearing is closed, the parties have a right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. (20 U.S.C. § 1415(h)(1); see also Ed. Code, § 56505, subd. (e)(1).) OAH's scheduling order dated May 28, 2025, notified the parties that if they were not represented by counsel, they may be accompanied or advised by a person knowledgeable about their child or special education matters. On the first day of hearing, the ALJ can address any request by Father to be accompanied at hearing by such individuals.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings