BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021100329

ORDER DENYING REQUEST TO COMPLETE ADMINISTRATIVE RECORD WITH RECORDS PRODUCED PURSUANT TO SUBPOENA DUCES TECUMS

JUNE 29, 2022

On May 3, 4, 5, 9, 11, 12, and 13, 2022, Administrative Law Judge Rommel P. Cruz held a due process hearing in this matter. Attorneys Wendy Dumlao and Erica Mortenson represented Student. Parents attended all hearing days on Student's behalf. Attorneys Sarah Sutherland and Whitney Antrim represented Grossmont Union High School District. Director of Special Education Rose Tagnesi attended all hearing days on Grossmont Union's behalf. Administrative Law Judge is referred to as an ALJ.

The parties issued, and records were produced pursuant to, subpoena duces tecums, referred to as SDTs. Subpoenaed records were uploaded into bundles as part of

an electronic evidence program. Throughout the hearing, exhibits were admitted into evidence, including some of the records produced pursuant to SDTs. In addition, the ALJ and the parties reviewed the exhibits admitted and excluded after the parties' concluded their case-in-chiefs. At the parties' request, the matter was continued to May 31, 2022, for the parties to file closing briefs. The parties timely filed closing briefs, the record was closed, and the matter was submitted for decision on May 31, 2022.

On May 31, 2022, at 5:28 PM, after the close of business, Grossmont Union filed with the Office of Administrative Hearings, a request to complete the administrative record with exhibits from subpoena duces tecum bundles. Grossmont Union contends the documents in the bundles not admitted into evidence were relevant, and proper foundation laid for their admission. Therefore, Grossmont Union requests that the subpoenaed records not previously admitted, be admitted into evidence. On June 10, 2022, Student filed an opposition to the request, contending the request was untimely.

The request to complete the administrative record with records produced pursuant to SDTs is denied as untimely. The parties had sufficient time during the hearing to review subpoenaed records once produced and uploaded to the electronic evidence program. Witnesses testified to some of the records produced. Furthermore, Grossmont Union had more than two weeks before the deadline to file closing briefs to request additional exhibits be admitted, or to seek an extension to file closing briefs to allow for additional time to review SDT records. Grossmont Union failed to do so.

In addition, the admission of additional exhibits following the parties' closing arguments would prejudice Student. The ALJ would be considering additional exhibits that Student did not have the opportunity to rely on, or challenge, in his closing argument. As a result, the request to admit additional records produced through SDTs

is untimely and improper under the circumstances. Accordingly, the request to complete the administrative record with exhibits from SDT bundles is denied.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings