BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024081149

ORDER GRANTING MOTION TO QUASH SUBPOENA

NOVEMBER 4, 2024

On August 30, 2024, Student filed a request for due process hearing naming Compton Unified School District, called Compton. The due process hearing in this matter is scheduled to begin on November 19, 2024.

On October 29, 2024, Student issued a subpoena to appear and testify and to produce records on Helen Rodriguez, custodian of records, presumably of Compton. The subpoena seeks production of 30 categories of documents. The declaration of necessity section of the subpoena was left blank.

On October 28, 2024, Compton filed a motion to quash the subpoenas on the grounds Student's discovery is impermissible and Student failed to show reasonable necessity for the documents sought.

On October 30, 2024, Student filed an opposition arguing Student's procedural rights would be compromised if Compton was allowed to unilaterally determine the evidence that can be presented at hearing by a motion to quash. Student did not address the lack of a declaration of reasonable necessity in the subpoena.

A party to a due process hearing under the Individuals with Disabilities Education Act has the right to present evidence and compel the attendance of witnesses in 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); see also Ed. Code, § 56505, subd. (e).)

In special education proceedings in California, the hearing officer has the right to issue subpoenas to appear and give testimony and subpoenas duces tecum for production of documents upon a showing of reasonable necessity by a party. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This requirement mirrors that required by Code of Civil Procedure section 1985, subdivision (b), which requires:

A copy of a declaration must be served with a subpoena duces tecum showing good cause for the production of the matters and things described in the subpoena. The declaration must specify the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

The good cause requirement is met by a factual showing of why the requested documents or things are material and relevant to the litigated issues. (*Johnson v. Superior Court* (1968) 258 Cal. App.2d 829, 835-836; see also *Seven Up Bottling Company v. Superior Court* (1951) Cal. App.2d 71, 77.)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions, the Office of Administrative Hearings relies by analogy on the relevant portions of the Code of Civil Procedure. Code of Civil Procedure section 1987.1 provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders.

The issued subpoena failed to comply with the requirement that it be accompanied by a declaration establishing reasonable necessity for production of the records. Student made no factual showing of why the requested documents or things are material and relevant to the issues in the due process hearing request. While section 1987.1 of the Code of Civil Procedure provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it, as no good cause for production of the records has been established, the subpoena cannot be modified.

Accordingly, Compton's motion to quash is granted and the subpoena is quashed in its entirety.

IT IS SO ORDERED

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings