BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017111058
v.	ORDER DENYING STUDENT'S MOTION TO OBTAIN SIGNATURES ON JUVENILE COURT'S PROTECTIVE ORDER
VISTA UNIFIED SCHOOL DISTRICT.	

On January 23, 2018, Student filed a motion to obtain the signatures of the undersigned Administrative Law Judge and counsel for Vista Unified School District on a protective order issued by the Juvenile Court judge presiding over Student's juvenile court proceedings. District orally opposed the motion at the telephonic hearing on the expedited issues in this case on January 26, 2018.

Student contends that he needs the signatures so that his attorney in the instant due process case may access his juvenile court records. Student attached as an exhibit an unsigned and undated Juvenile Court protective order. The only "related case" referenced in the order is Student's Juvenile Court proceeding. The order does not reference the instant due process proceeding. There is no indication of the records the court ordered released.

Student does not provide any authority for his motion to have an administrative law judge sign a protective order in either a due process proceeding or in proceedings in another court. Nor does Student provide any authority for an administrative law judge to order a party in a due process proceeding to sign a protective order in another proceeding over which the ALJ does not have jurisdiction. Additionally, Student has failed to demonstrate the necessity for any of the documents. If Student's probation officer communicated in writing with District, District should have copies of those communications. If they have not been produced to Student pursuant to the undersigned ALJ's oral order at hearing on January 11, 2018, Student may either subpoena the records from District or raise the issue with the ALJ.

Finally, Student provides no explanation as to why the provisions of Welfare and Institutions Code, section 827, do not apply to his ability to view his own records and obtain copies of them for use in his due process case. Section 827, subdivision (a)(1) states in pertinent part that:

(a)(1) Except as provided in Section 828, a case file may be inspected only by the following:

(C) The minor who is the subject of the proceeding.

(D) The minor's parent or guardian.

(E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(G) The superintendent or designee of the school district where the minor is enrolled or is attending school.

Under the provisions of section 827, subdivisions (a)(1)(C) and (D), Student's records should be available to Student and his parent, and to their attorneys. Under subdivision (a)(1)(E), the records should be available to the ALJ and to the parties to this due process proceeding as it is a "juvenile proceeding" involving Student. Under subdivision (a)(1)(G), the records should be available to District and its attorneys since Student is enrolled in a District school.

If Student wishes the ALJ in this due process proceeding to issue a protective order to cover his juvenile court records that he wishes to refer to and/or move into evidence in the instant case, he should make a motion to the undersigned for such an order. However, Student must understand that although evidentiary records in a due process proceeding are confidential, decisions issued by the Office of Administrative Hearings are public records. Therefore, evidence produced at hearing may be referenced in the due process hearing decision if relevant to the decision.

IT IS SO ORDERED.

DATE: January 26, 2018

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings