BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALM SPRINGS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060210

ORDER DENYING REQUEST FOR OFFICIAL NOTICE

AUGUST 4, 2025

On June 5, 2025, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Palm Springs Unified School District as respondent. On June 24, 2025, Palm Springs filed a request for judicial notice that was included with requests for a continuance or bifurcation of the hearing. The request for judicial notice was denied as premature and Palm Springs was ordered to file the request by the motion deadline prior to the prehearing conference in this case.

Palm Springs did not file a timely request for judicial notice prior to the July 25, 2025 prehearing conference. During that prehearing conference, Palm Springs made an oral motion for judicial notice. The undersigned denied the oral motion without prejudice and ordered Palm Springs to specifically identify the documents it

wanted to have judicially, or as it is referred to in administrative cases, officially noticed, prior to hearing.

Palm Springs filed this request for official notice on July 31, 2025, asking that OAH officially notice "the filings prepared in OAH Case Nos. 2024060519 and 2025030012." Palm Springs asserts its June 23, 2025 request for judicial notice included with its request for continuance and bifurcation; and the July 25, 2025 oral motion, both of which were denied, constituted timely filings. Therefore, Palm Springs contends, the timeliness of this filing should not be a concern, as Student had notice of its intent to file the motion. Palm Springs further states that it "does not seek Official Notice for the truth of the matters asserted, but rather for a showing that the District fulfilled its obligations by filing a timely due process Complaint to defend its assessments."

On August 1, 2025, Student opposed the motion, asserting the request for judicial notice was not timely filed prior to the July 25, 2025 prehearing conference, as ordered in OAH's July 1, 2023 order denying the first request for judicial notice. Student further contends this motion fails to include a declaration explaining the reason why the motion was not timely filed as required by the July 1, 2023 order, and as required by the undersigned during the July 25, 2025 prehearing conference. Student also argues that the documents for which Palm Springs requests official notice, are not specified, and Palm Spring's official notice request is not relevant to the issues in this hearing.

APPLICABLE LAW

In reaching a decision in an administrative matter, an Administrative Law Judge may take official notice, either before or after submission of the case, for decision, of any generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially noticed by the courts of this State. (Gov. Code

§ 11515.) An administrative law judge may take official notice of material in the record of an administrative agency adjudication. (*Hogen v. Valley Hospital* (1983) 147 Cal. App. 3d, 119, 125; Evid. Code § 452(c).) However, while official notice may be taken of the existence of a governmental act, the truth of anything stated in that act is not subject to judicial or official notice. (See, *Richtek USA, Inc. v. UPI Semiconductor Corp*. (2015) 242 Cal. App. 4th 651, 659-660 [existence of prior pleadings in other cases judicially noticeable, but not the truth of their content to resolve factual disputes]; *Arce v. Kaiser Found. Health Plan, Inc.* (2010) 181 Cal. App. 4th 471, 483 [court can take judicial notice of filings in another case but not of the "truth of any factual assertions appearing in the documents"].)

MOTION TIMELINESS

Student objects to Palm Springs' motion on the grounds that it was not filed prior to the July 25, 2025 PHC as previously ordered. While this is true, Student asserts no facts establishing any prejudice resulting from the late motion filing.

Palm Springs' asserts that its motion is timely, based upon prior notice to Student, However, whether previously denied motions were timely filed has no impact on the timeliness of a later filed motion, like the motion at issue here. Palm Springs assertion to the contrary lacks credibility and could be seen as disingenuous.

A procedural flaw without impact is not generally grounds for denying a motion. The general rule in both federal and state forums is that purely technical violations of procedures, resulting in no prejudice, are not grounds for relief. (See, 34 C.F.R. § 300.513(a)(2), [prohibiting IDEA hearing decisions to be based on solely technical violations of the IDEA]; Ca Const., Art. 6 § 13. [errors as to matters of pleading or procedure not to result in judgments being set aside absent proof of a miscarriage of

justice.].) Student has not offered any basis for declining to consider the request for official notice purely on procedural grounds.

Here, Palm Springs' late filing of the motion for official notice constitutes a purely procedural violation, with no demonstrated prejudice. Therefore, the motion is not denied as untimely.

DOCUMENTS NOT SPECIFIED

Of greater concern regarding this official notice request is Student's objection on the grounds that Palm Springs failed to identify the documents it is asking to have officially noticed. A request for official notice is a request that evidence be accepted without cross-examination. The California Administrative Procedure Act requires notice and opportunity to rebut whenever an agency intends to take "official notice ... of any generally accepted technical or scientific matter within the agency's special field, [or] of any fact which may be judicially noticed by the courts of this State." (*Franz v. Board of Medical Quality Assurance* (1982) 31 Cal. 3d 124, 140; 642 P.2d 792, 181 Cal. Rptr. 732, citing, Gov. Code, § 11515; see Evid. Code, § 450 et seq.) The process requires specific notice of the documents for which official notice is requested, to allow the opposing party the opportunity to examine the identified and raise any objections to the proposed evidence. (See, Gov, Code § 11515.)

During the prehearing conference, the undersigned reminded Palm Springs of the need to specifically identify the documents for which they requested official notice. That was not done. Palm Springs simply asked that ""the filings prepared in OAH Case Nos. 2024060519 and 2025030012" be officially noticed. There is no indication of whether Palm Springs meant the filings it prepared; all filings from both parties; or all OAH orders. Rarely are all documents filed in a prior case relevant in a due process

hearing. Palm Springs has not complied with the requirements for requesting official notice of proposed evidence.

NO RELEVANCE WITHOUT DOCUMENT CONTENT

Even if Palm Springs had complied with the procedures for requesting official notice, it has not made a case for the relevance of the documents. Palm Springs asks that OAH take official notice of the fact that documents were filed in prior cases. However, the simple fact that Palm Springs filed documents in a prior OAH case, does not establish that Palm Springs timely filed to defend an assessment at issue in this case. There is no specified deadline for filing a request for due process to defend an assessment. The mandate is that a district either fund a requested independent assessment, or file a due process hearing request to defend the questioned assessment "without unnecessary delay." (34 C.F.R. § 300.502 (B)(2). Palm Springs has failed to assert a basis for official notice of the fact that documents were filed in a prior case.

Palm Springs' request for official notice of the filings prepared in OAH Case numbers. 2024060519 and 2025030012 is denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings