BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024100913

ORDER DENYING MOTION FOR RECORDS; ORDER DENYING MOTION FOR COPIES OF PROCEDURAL SAFEGUARDS AND TO ASSIGN AN INDIVIDIUAL TO REVIEW THE PROCEDURAL SAFEGUARDS WITH PARENT

NOVEMBER 19, 2024

On November 4, 2024, Parent on behalf of Student filed with the Office of Administrative Hearings, called OAH, two separate motions. In his first motion, Student moved for an order directing Santa Monica-Malibu Unified to provide Parent with copies of individualized education program, called IEP, documents dated December 21, 2023, and June 5, 2024, related audio recordings of the meetings, within 24 hours of Student's filing of the motion. Student argues Santa Monica-Malibu Unified failed to

provide the requested IEP documents and the recordings pursuant to Parent's records requests.

Student's second motion requests an order that Santa Monica-Malibu Unified provide Parent with a copy of procedural safeguards and to assign an individual to review the procedural safeguards with Parent. Student argues Santa Monica-Malibu Unified failed to provide Parent with a copy of the procedural safeguards when Santa Monica-Malibu Unified served Student with Santa Monica-Malibu Unified's due process hearing request, called a complaint, filed by Santa Monica-Malibu Unified on September 9, 2024, in OAH case number 2024090320, naming Student

On November 7, 2024, Santa Monica-Malibu Unified filed an opposition to the motions. Santa Monica-Malibu Unified included declarations from Director of Special Education Victoria Hurst and paralegal Tricia Williams in support of its opposition.

RECORDS REQUEST

Santa Monica-Malibu Unified contends it provided Parent with the requested records on numerous occasions. Hurst declared that Santa Monica-Malibu Unified provided Parent with a complete copy of Student's educational records on January 12, 2023, March 24, 2023, September 5, 2023, May 14, 2024, and September 11, 2024, including audio recordings of IEP team meetings that it had.

California Education Code section 56504 states that the parent shall have the right and opportunity to examine all school records of his or her child and to receive copies within five business days after the request is made by the parent, either orally or in writing. Pupil records are any information directly related to an identifiable pupil, other than directory information, that is maintained by a school district or required to be

maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm, or other means. (Ed. Code, § 49061, subd. (b).)

Santa Monica-Malibu Unified established it provided Parent with a copy of Student's educational records, including the IEP documents dated December 21, 2023, and June 5, 2024. Santa Monica-Malibu Unified also established it provided Parent copies of IEP team meeting recordings that it had. Student's motion failed to demonstrate that the educational records Parent received were not complete. Student also failed to offer any credible explanation to support Parent's belief that additional records exist that are maintained by Santa Monica-Malibu Unified and are being withheld from Parent. Accordingly, Student's request for an order directing Santa Monica-Malibu Unified to provide Parent with copies of IEP documents dated December 21, 2023, and June 5, 2024, and related IEP team meeting audio recordings, is denied.

PROCEDURAL SAFEGUARDS

Santa Monica-Malibu Unified contends Student's motion for an order that Santa Monica-Malibu Unified provide a copy of the procedural safeguards to Parent is not appropriate in this matter as Student did not raise an issue in Student's complaint, alleging a failure by Santa Monica-Malibu Unified to provide Parent procedural safeguards. In addition, Santa Monica-Malibu Unified asserts it previously provided Parent with copies of the procedural safeguards at prior IEP team meetings. Furthermore, Williams declared she emailed Parent a copy of the procedural safeguards on November 4, 2024, after inadvertently failing to include the procedural safeguards when it served its complaint on Student. For those reasons, Santa Moncia-Malibu Unified contends an order for a copy of the procedural safeguards to be provided to Parent is unnecessary, and the request should therefore be denied.

A copy of procedural safeguards must be given to the parents of a child with a disability only one time each school year. (20 U.S.C. § 1415(d)(1)(A); 34 C.F.R. § 300.504.) The Individuals with Disabilities Education Act's regulations do not specify when during a school year the procedural safeguards must be provided, except that a copy must be given to a parent upon initial referral for evaluation, at the time a complaint is filed, when requested by a parent, and in accordance with discipline procedures. (*Ibid.*) California law requires that parents be informed of federal and state procedural safeguards at each IEP team meeting. (Ed. Code, § 56500.1, subd. (b).)

Here, Santa Monica-Malibu Unified established that it had provided Parent with a copy of the procedural safeguards as recently as November 4, 2024. Accordingly, an order directing Santa Monica-Malibu Unified to comply with Student's request is not warranted, and therefore, Student's request for Santa Monica-Malibu Unified to provide a copy of procedural safeguards is denied.

AN INDIVIDUAL TO REVIEW PROCEDURAL SAFEGUARDS WITH PARENT

Santa Monica-Malibu Unified contends an order to assign an individual to review the procedural rights and safeguards with Parent should be denied because an order is not necessary. Hurst declared that she offered to answer Parent's questions about procedural rights and safeguards on August 21, 2024. According to Hurst, Parent did not ask Hurst any questions related to Parent's procedural safeguards. In addition, Hurst informed Parent that Assistant Superintendent of Tri-Cities Special Education Local Plan Area Deanna Sinfield was able and willing to review the procedural rights and safeguards with Parent. According to Hurst, Parent did not contact Sinfield to review the procedural rights and safeguards.

School districts are required to provide a parent a copy of the procedural safeguards that is written in a language understandable to the general public and in the native language of the parent, or other mode of communication used by the parent, unless doing so is clearly not feasible. (34 C.F.R. § 300.504(d).) If the parent's native language or mode of communication is not a written language, then the school district must take steps to ensure:

- the procedural safeguards are translated orally or by other means, to the parent;
- that the parent understands the contents of the procedural safeguards; and
- the prior steps were met and documented in writing.

(*Ibid.*) Special education laws did not require school districts to dedicate an individual to review the procedural safeguards with a parent, nor does the law entitle a parent to that accommodation if the procedural safeguards are written in the parent's native language or other mode of communication used by the parent, and the copy of the procedural safeguards is understandable by the general public.

Student failed to establish an order compelling Santa Monica-Malibu Unified to assign an individual to review the procedural safeguards with Parent is warranted. Parent failed to establish the procedural safeguards provided by Santa Monica-Malibu Unified to Parent was not written in a language understandable to the general public and not in Parent's native language.

In addition, Student failed to show that Santa Monica-Malibu Unified failed to provide Parent with a copy of the procedural safeguards at IEP team meetings, refused to explain the procedural safeguards to Parent at the meetings, refused to answer

Parent's questions about the procedural safeguards, or that Parent sought the assistance of Hurst or Sinfield to understand the procedural safeguards. Accordingly, an order compelling Santa Monica-Malibu Unified to assign an individual to review the procedural safeguards with Parent is denied because Student failed to establish Santa Monica-Malibu Unified is unable or unwilling to review the procedural safeguards with Parent.

ORDER

1. Student's motion for an order directing Santa Monica-Malibu Unified to provide Parent with copies of IEP documents dated December 21, 2023, and June 5, 2024, and audio recordings of the IEP team meetings on those dates is denied.
2. Student's motion for an order directing Santa Monica-Malibu Unified to provide Parent with a copy of the procedural safeguards and to assign an individual to review the procedural safeguards with Parent is denied.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings