BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017080513
v.	ORDER DENYING STUDENT'S MOTION FOR PRODUCTION OF EDUCATIONAL RECORDS
ANTIOCH UNIFIED SCHOOL DISTRICT.	

On August 10, 2017 Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming District. At the March 5, 2018, prehearing conference, the ALJ ordered the matter proceed to hearing on March 20-22, and continuing March 26-29, 2018. The hearing proceeded as scheduled and continued April 3-5, 2018.

On April 4, 2018, the day before hearing concluded, Student moved to compel District to produce educational records, including binders from Student's prior classroom referenced by witness testimony. Student could not specifically identify the documents or particular binders he sought to compel, even by category. Student had not served District with a subpoena duces tecum requiring District to produce such records at hearing. The motion to compel District to produce unidentified educational records or binders was heard and denied for reasons stated on the record.

On April 4, 2018, at 4:38 p.m., Student filed with OAH a written motion for production of educational records seeking "behavior binders" or a "behavior folder" referenced by witnesses during hearing.

APPLICABLE LAW

Neither the IDEA nor California law provides for prehearing discovery in a due process hearing. Rather, a party to a due process hearing has the right to present evidence and compel the attendance of witnesses at the hearing. (20 U.S.C. § 1415(h)(2); Ed. Code, § 56506, subd. (d)(2) and (3).) Further, at least five business days prior to the hearing, the parties have the right to be provided with a copy of all documents and a list of all witnesses and their general area of testimony the parties intend to present at hearing. (Ed. Code, § 56505, subd. (e).) A party to a due process hearing under the Individuals with Disabilities

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

Education Act has the right to present evidence and compel the attendance of witnesses at the hearing. (20 U.S.C. § 1415(h)(2); Ed. Code, § 56505, subd. (e).)

Parents may request copies of their child's educational records at any time, and are entitled to receive those copies within five business days of their request. (Ed. Code, § 56504.) Education records under the IDEA are defined by the federal Family Educational Rights and Privacy Act (FERPA) to include "records, files, documents, and other materials" containing information directly related to a student, other than directory information, which "are maintained by an educational agency or institution or by a person acting for such agency or institution." (20 U.S.C. § 1232g(a)(4)(A); Ed.Code, § 49061, subd. (b).)

DISCUSSION

Student's written motion was filed after Student's oral motion was heard and ruled upon on the record earlier that day. Student did not, during the hearing or in the written motion, demonstrate that the documents sought were educational records as defined by Education Code, section 56504 or FERPA. Even if the written motion was deemed a motion to reconsider the ruling on the oral motion heard earlier in the day during the hearing, Student presented no new facts or law to support a motion for reconsideration.

Moreover, Student made no showing that such records had not already been made part of the record during the hearing. Student's motion to compel District to produce educational records is denied.

IT IS SO ORDERED

DATE: May 07, 2018

DocuSigned by:

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings