BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

OJAI UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025050562

ORDER DENYING IN PART AND GRANTING IN PART STUDENT'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS

October 10, 2025

On May 12, 2025, Student through Father filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Ojai Unified School District.

OAH deemed the second amended complaint filed on August 15, 2025, and reset all the timelines based on the filing of the second amended complaint. OAH set the prehearing conference for September 22, 2025 and the hearing for September 30 through October 2, 2025. At the prehearing conference on September 22, 2025, OAH

set a mediation for October 10, 2025, and continued the prehearing conference to November 3, 2025, and the hearing to November 13, 2025.

STUDENT'S MOTION TO COMPEL

On September 10, 2025, Student filed a motion to Compel the Production of Records. Student claims that District only provided Father with Student 's cumulative file. By the motion which is labeled "DRAFT," Student seeks that OAH order District to produce within five days various records which Student characterizes as educational records, broken into categories Student labels as:

- assessment records (documents prepared by Liv Thwaites and Rylee Corpus pertaining to assessments);
- "IEP Documentation" (IEP meeting notes and minutes by Kathy White);
- District staff communications regarding Student's assessments, individualized education program, or IEP, development or behavior;
- therapist and service provider notes regarding school-based services or relied upon in assessments; and
- other documentation regarding meetings with Sherril Knox pertaining to an attempted restraining order in Student's file.

Student also seeks to have OAH order that District be prevented from relying upon any undisclosed documents at the mediation or hearing. Student argues that the failure to produce these records interferes with Father's ability to make informed decisions and prepare for mediation and hearing.

On September 15, 2025, Student filed a second request for production of documents, seeking the same documents as sought by the motion filed on September 10, 2025. However, this motion is not marked "DRAFT."

DISTRICT'S OPPOSITION

On September 15, 2025, District filed opposition to the motion to compel production of records. District claims it already disclosed all Student records maintained by District in Student's file. District argues that OAH does not permit prehearing discovery, and that motions to compel are only permitted when a party fails to comply with a subpoena or other enforceable request for records subject to disclosure. District argues that the documents sought are either not educational records or beyond the scope of permissible evidence gathering before the hearing. District asserts that subpoenas have not been issued by Student, which require a showing of reasonable necessity.

District argues that raw data and scoring sheets are not educational records and that because Student's evaluation and IEP are incomplete there are no finalized assessments, testing protocols or IEP notes in Student's educational record. It asserts that internal preparatory notes are not in Student's educational record and the law does not require retention or production of preliminary drafts or internal preparatory materials. It asserts it will provide Student with a copy of the finalized IEP when the IEP team concludes the process and eligibility is determined. District argues that internal communications, provider notes and meeting documentation are not maintained in Student's educational record.

District argues that Father asked for Student's educational records on or about November 20, 2024, and District provided the records within five business days. In response to Father's concerns about the documents, District claims that on May 13, 2025, it informed him that all the records requested by Father had been produced and no IEP documents could be produced because the IEP had not been finalized. The initial

IEP team meeting which began in Spring 2025 had not been completed and was scheduled for September 19, 2025.

District asserts that on May 14, 2025, it provided Father with another copy of the records. It also states that it gave Father a draft copy of its initial assessment report, which District asserts will not be completed until an IEP team meeting is held to review it. At that time, it also produced the restraining order against Father that was contained in Student's file. District claims it also explained to Father that there were no IEP documents to send him because Student's initial IEP had not been completed. On May 21, 2025, it asserts it informed Father it had already provided all educational records to him, and that any additional records requested by Father beyond those produced, were not part of Student's educational records maintained by District. It claims that in May 2025 it sent Father a draft of Student's present levels. District asserts it received another records request from Father on September 9, 2025, and the motion to compel on September 10, 2025. District states that to the extent any new student records exist since its last production in May 2025, it will produce them within five business days from the September 9, 2025 request. District also agrees to provide copies of the test protocols.

STUDENT'S RESPONSE

On September 17, 2025, Student filed a response regarding the document production. Student contends that District has not provided all of Student's educational records. Student contends that on September 15, 2025, District sent a limited number of records to Father, representing full compliance. On September 16, 2025, District sent an additional box of 1,000 more pages. Student contends even with this latest production, District has failed to provide the following:

- Records authored by the school psychologist Corpuz, including notes, observations and communications;
- Study Student Team, or SST, meeting notes and minutes;
- IEP meeting minutes or narrative notes;
- Father input redacted from the draft assessment.

Student requests an order requiring production of the records. Student also asks that OAH consider imposing sanctions or admonishing District.

On September 22, 2025, Student filed a declaration in support of the pending motion to compel production of documents. Student contends District failed to produce:

- raw unedited SST meeting notes from September 30, 2024;
- raw unedited IEP minutes from May 8 and September 19, 2025; and
- attendance records from the 2024-2025 school year.

Student requests an order that District produce these three categories of documents in addition to:

- all notes, intake documentation and communications prepared by Corpuz; and

that District be precluded from relying on any IEP minutes not produced prior to the prehearing conference and hearing.

SEPTEMBER 22, 2025 PREHEARING CONFERENCE

The pending motion to compel was discussed at the prehearing conference on September 22, 2025. The Administrative Law Judge, or ALJ, explained to Father that he

was only entitled to educational records and that many of the documents Father was seeking did not appear to be educational records. The parties discussed with the ALJ the documents Father claimed were still missing.

District's counsel represented to the ALJ that there were no records authored by the school psychologist Corpuz, including notes, observations and communications, in Student's educational records. Attorney Hatch also represented that while Corpuz was interviewed for the assessment, which interview is contained in the report, Corpuz did not conduct Student's assessment. Attorney Hatch also stated that all of testing protocols for Student's assessment were already provided to Father, and counsel agreed to provide an updated declaration from District. Attorney Hatch also stated that the SST meeting notes were already provided to Father, and there were no minutes, or raw unedited notes or minutes for the SST meeting. Attorney Hatch explained that initial IEP team meeting had been completed on September 19, 2025. Hatch agreed District would produce by September 26, 2025, the final initial IEP to Parents including the notes from the May 2025 IEP team meeting. Attorney Hatch took that position that the May 2025 IEP team meeting notes did not have to be produced earlier because the IEP process had not been completed until September 2025 and those notes were a part of that IEP. Attorney Hatch also represented there were no redactions from the assessment report, and she would have District provide a declaration explaining the markings on the report. Father noted he did not get the attendance record he requested from District.

At the conclusion of the discussion, the ALJ stated that she would issue an order requiring District to produce the initial IEP, including all notes by September 26, 2025, but it appeared that all other educational records had either already been produced or would be produced by September 26, 2025.

On September 29, 2025, District filed a supplemental declaration of District's Director of Special Education, Robin Monson, in support of its opposition to the motion to compel. Monson swears that on September 15, 2025, she provided to Father all student records previously provided to Father, and also produced to Father many additional documents, including attendance records and copies of District's testing protocols. Monson's declaration also explains that the blank or blackened fields on Student's draft assessment report are not redactions or omissions. Monson also swears that Student's initial IEP was completed and on September 26, 2025, a copy of the finalized assessment report, and the entire IEP, including all notes from the IEP team meetings held to develop the initial IEP were provided to Father.

APPLICABLE LAW

The right to obtain documents before hearing in special education cases is limited and only permitted regarding certain types of documents.

In general, there is no right to prehearing discovery in due process proceedings under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), called the IDEA. Rather, a party to a due process hearing under IDEA 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).

California provides a similar right to present evidence and compel the attendance of witnesses in due process proceedings but does not confer the right to prehearing discovery. (Ed. Code, § 56505, subd. (e).) In special education proceedings in California, "[t]he hearing officer shall have the right to issue Subpoenas (order to appear and give testimony) and Subpoenas Duces Tecum (order to produce document(s) or paper(s)

upon a showing of reasonable necessity by a party)." (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).)

Education Code section 56505, subdivision (a), provides that "[t]he state hearing shall be conducted in accordance with regulations adopted by the board," and under that authority the Department of Education promulgated section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of subpoenas and subpoenas duces tecum. These regulations specifically disallow the provisions of the Administrative Procedures Act that provide broader authority for the use of subpoenas as in other administrative hearings. (Cal. Code Regs., tit. 5, § 3089, [inapplicability of Govt. Code, §§ 11450.05-11450.30 to due process hearing procedures].) Thus, while subpoenas duces tecum are authorized in special education hearings, their use must be consistent with the legislative and regulatory framework which govern these proceedings – meaning that in due process cases, subpoenas can only be used to compel the production of a witness or documents at the hearing itself.

Notwithstanding the prohibition of prehearing discovery, Parents or adult students are entitled to request copies of a student's educational records maintained by the school district at any time. (Ed. Code, § 56504; *Burnett v. San Mateo Foster City School District* (9th Cir. 2018) 739 Fed. Appx. 870, 873 (*Burnett*); Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children that are maintained by school districts or private schools. The withholding of any of those records is prohibited. (Ed. Code, § 49069.7.)

Under Title 20 United States Code section 1232h(a), a school district must also make available for parent's inspection "[a]ll instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program." The parties

are also entitled to disclosures of any evidence an opposing party plans to introduce at hearing five business days prior to the date of the first day of hearing. (Ed. Code, § 56505, subd. (e)(7).)

A public agency is required to comply with a request for pupil records without unnecessary delay before any IEP team meeting or any hearing and in no case more than five business days after the request is made orally or in writing. (Ed. Code, § 56504.) If a school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information. (*Ibid.*) A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency. (*Ibid.*)

However, not all school records are education records or pupil records. Education records under the IDEA, sometimes called pupil records, are defined by the federal Family Educational Rights and Privacy Act, also called 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); see also Ed. Code, § 49061, subd. (b) [defining pupil records]; 34 C.F.R. § 99.3 [defining education records]; see also *Newport-Mesa Unified School District v. State of California Department of Education* (C.D.Cal. 2005) 371 F.Supp.2d 1170, 1175, 1179, fn. 5 [testing protocols are school records under Education Code section 56504, which include scores sheets on which students mark their answers and tables on which examiners calculate student's scores, and can include prompts of the test questions and instructions for test administrators]; *Letter to Price*, Office of Special Education Programs (October 13, 2010)[a test protocol that contains personally identifiable information is an

education record]; *Letter to Shuster*, Office of Special Education Programs (August 7, 2007)[records that are not directly related to a student and maintained by agency are not education records].)

The United States Supreme Court in *Owasso Ind. School District v. Falvo* (2002) 534 U.S. 426 *(Falvo*) after conducting an analysis of FERPA provisions related to education records, determined that not every record relating to a student satisfies the FERPA definition of "education records." Specifically, the Supreme Court examined the FERPA provision that requires educational institutions to "maintain a record, kept with the education records of each student" that "list[s] those who have requested access to a student's education records and their reasons for doing so." (*Falvo*, *supra*, 534 U.S. at p. 434.) The Court concluded that because this single record must be kept with the education records, "Congress contemplated that education records would be kept in one place with a single record of access." (*Id.*) The Court further concluded that "[b]y describing a 'school official' and 'his assistants' as the personnel responsible for the custody of the records, FERPA implies that education records are institutional records kept by a single central custodian, such as a registrar…" (*Id.* at pp. 434-435.)

In *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, when determining whether an investigative report was an education record, citing *Falvo*, the Court of Appeal stated that "the statute was directed at institutional records maintained in the normal course of business by a single, central custodian of the school. Typical of such records would be registration forms, class schedules, grade transcripts, discipline reports, and the like." (*Id.* at p. 754.) The Court of Appeal found that the investigative report, "which was not directly related to the private educational interests of the student," was not an education record, because "the report was not something regularly done in the normal course of business," and "was not the type of report regularly

maintained in a central location along with education records…in separate files for each student." (*Id.* at p. 755.)

In *S.A. ex rel. L.A. v. Tulare County Office of Education* (E.D.Cal. Sept. 24, 2009, No. CV F 08–1215 LJO GSA) 2009 WL 3126322, aff'd. *S.A. v. Tulare County Office of Education* (E.D.Cal. October 6, 2009, No. CV F 08-1215 LJO GSA.) 2009 WL 3296653, the district court found that documents such as school district emails concerning or personally identifying a student that had not been placed in his permanent file were not educational records as defined under FERPA. Citing *Falvo*, the court stated Congress contemplated that educational records would be kept in one place with a single record of access to those records. Because the emails student requested had not been placed in his permanent file and were therefore not "maintained" by the school district, the emails were not educational records, and the school district was therefore not required to produce them under a request for student records under the IDEA. (2009 WL 3126322, at p. 7.)

In *Burnett*, parents argued that the school district committed a procedural violation when it only turned over emails concerning the student that had been printed and added to the student's file. The Ninth Circuit Court of Appeals affirmed the district court's determination that the school district was not required to turn over emails that were not "maintained" in a physical folder or secure electronic database. (739 Fed. Appx. at p 873.) "The Supreme Court has interpreted the word 'maintained' in FERPA as 'to keep in existence or continuance; preserve; retain' and reasoned that '[t]he word 'maintain' suggests FERPA records will be kept in a filing cabinet in a records room at the school or on a permanent secure database.'" *(Ibid.*, quoting *Falvo*, 534 U.S. 426 at pp. 432-433.)

Special education law does not specifically address motions to quash subpoenas duces tecum or motions to compel production of documents. In ruling on such motions, OAH relies by analogy on the relevant portions of the Code of Civil Procedure. Moreover, an ALJ may take action to promote due process or the orderly conduct of the hearing. (Cal. Code Regs., tit. 1, § 1030.) Government Code, section 11425.20 empowers the ALJ to issue orders to the extent necessary or proper to ensure a fair hearing in the circumstances of the case.

DISCUSSION

It appears that some of the documents sought by Student clearly fall within the category of "education records" and some of the documents requested have not been established to be "education records" as that term is defined by the law, as discussed above. Not every record relating to a student satisfies the FERPA definition of "education records." Student failed to establish that all the requested documents are records which were or should have been maintained in Student's educational record. To the extent Student seeks records which are not education records as that term is defined by law, Student's request for production of documents is denied. Prehearing discovery is not allowed in special education cases and to the extent Student seeks documents which do not fall within the definition of education records, Student is not entitled to these documents prior to hearing through a prehearing motion to compel. For example, Student has made no showing that all documentation regarding meetings pertaining to an attempted restraining order or that all communications sought are education records. Student is not entitled to any of the requested documents which are not part of Student's education record at this juncture.

However, many of the documents sought by Father are education records. Education records can be requested at any time pursuant to Education Code section

56504. To the extent Father sought Student's education records as that term is defined by existing law, Father was permitted to make this request orally or in writing and District was required to produce them within five business days of the request.

Based on the information provided in the papers filed by both parties and the discussion at the prehearing conference, the ALJ is unable to conclude that there are any education records which have not now been produced by District. District claims it produced all Student's education records, and its production included the SST meeting notes, all testing protocols, the initial assessment and IEP, including IEP meeting notes, attendance records, and the restraining order in Student's file.

Nonetheless, to the extent that District has not yet produced a complete copy of Student's education records, District is ordered to produce those records it has not already produced to Father, if any, within five calendar days of the date of this order. If there were any documents that were at any time included in Student's education record and have not yet been produced, District is ordered to produce them within five calendar days of the date of this order. The ALJ finds that requiring District to produce all education records prior to hearing will promote due process and the orderly conduct of the hearing and that such production was required without any unnecessary delay before any IEP team meeting, and in no case more than five business days after the request was made. (Ed. Code, § 56504.)

Accordingly, except for the records District already produced to Father in May 2025 and thereafter, District is required to produce to Father by no later than October 15, 2025, all education records as defined in title 20 United States Code section 1232g and Education Code section 49061 and the applicable regulations and case law interpreting those statutes and regulations. This production shall include but is not limited to, all yet unproduced assessment protocols pertaining to Student, SST meeting

notes, the initial assessment and IEP, including all IEP meeting notes, and any other documents contained in or were ever part of Student's education record.

Nothing in this order is intended to limit Father's right to subpoena documents for the hearing upon a showing of reasonable necessity. Nor is anything in this order intended as a determination of Student's claim that District denied Student a FAPE by failing to timely produce Student's education records. (See Issues 6A through 6C in the September 22, 2025 prehearing conference order.) All other relief sought by Student is denied.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings