BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2020120036

ORDER OVERRULING OBJECTION TO SUBPOENA DUCES TECUM AS MOOT

FEBRUARY 18, 2021

On November 24, 2020, Student filed a request for due process naming San Dieguito Union High School District. At the prehearing conference in this matter, on January 8, 2021, the hearing was continued to March 16, 2021 through March 18, 2021.

On December 30, 2020, prior to the prehearing conference, San Dieguito issued a subpoena duces tecum seeking documents from the custodian of records for Cherry Gulch Therapeutic Boarding School, where Student was parentally placed. Both Student's attorney and San Dieguito's attorney have since contacted Cherry Gulch informing it that the hearing was not going forward on January 8, 2021, and that Cherry

Gulch was not required to produce documents in accordance with the subpoena duces tecum.

On January 20, 2021, Student filed an objection to the subpoena duces tecum. The objection concedes that the matter has been resolved, as San Dieguito notified Cherry Gulch that the subpoena duces tecum did not need to be honored.

San Dieguito concedes that the subpoena duces tecum served on Cherry Gulch is ineffective, and that a new subpoena duces tecum will need to be issued if San Dieguito seeks document production. The sworn declaration of San Dieguito's counsel states that she advised Cherry Gulch that it should not produce any records until she contacted it with clarifying information, and concedes that San Dieguito will be required to re-issue a subpoena in conformance with OAH protocols.

San Dieguito has effectively withdrawn the subpoenas duces tecum, rendering Student's objection moot. Cherry Gulch is not required to comply with the subpoena duces tecum served by San Dieguito. This order does not preclude Student from filing a motion to quash if San Dieguito issues a new subpoena duces tecum.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings