BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

DEL MAR UNION SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021050590

ORDER DENYING MOTION TO COMPEL PRODUCTION OF DOCUMENTS

AUGUST 2, 2021

On May 19, 2021, Del Mar Union School District filed a Request for Due Process, called complaint, with the Office of Administrative hearings, called OAH, naming Parent on behalf of Student. On July 13, 2021, Student filed a motion to compel Del Mar, David Sobel of the Sobel Group, Office of Civil Rights, and California Department of Education to produce all documents related to Student. No opposition was received.

APPLICABLE LAW AND DISCUSSION

OAH has jurisdiction only over claims alleging the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), called IDEA, or California special education laws

were violated. Special education due process hearing procedures may involve a student's parent or guardian, the student under certain conditions, and "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs." (Ed. Code, §§ 56500, 56028.5.) Here, Student's local education agency is Del Mar and no parties, other than Del Mar and Student, have been named. Consequently, OAH does not have jurisdiction over David Sobel of the Sobel Group, Office of Civil Rights, and California Department of Education, and Student's motion is denied as to these non-parties.

Parties have no right to formal prehearing discovery in special education due process hearings. However, the procedural safeguards of the Individuals with Disabilities Education Act allow parents the opportunity to examine all records relating to their child with respect to the identification, evaluation, and educational placement of the child; and the provision of a free appropriate public education, called FAPE, to the child. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.501(a).) Additionally, the California Education Code allows parents the right to examine and receive copies of all school records related to their child within five business days after a request for records is made. (Ed. Code, § 56504.)

Student's motion to compel as to Del Mar fails because Student did not establish that Del Mar failed to comply with a records request made pursuant to the above statute, and because Student's request is not limited to records relating to the identification, evaluation, educational placement, and provision of FAPE, to Student. Consequently, Student's motion is denied.

This order denying Student's motion does not prevent Student from subpoenaing a witness or documents for hearing. Student may contact the OAH case manager for a subpoena.

ORDER

Student's Motion to Compel is denied.

IT IS SO ORDERED

Paul H. Kamoroff
Paul H. Kamoroff (Aug 3, 2021 11:30 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings