BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

CAPISTRANO UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025080695

OAH CASE NUMBER 2025081021

ORDER LIMITING RESTRAINED PERSON, FATHER'S PARTICIPATION IN THIS MATTER

SEPTEMBER 5, 2025

On August 12, 2025, Student filed a due process earing request with the Office of Administrative Hearings, called OAH, naming Capistrano, in OAH case number 2025080695. OAH designated Student's case, OAH case number 2025080695, as a dual matter, meaning it includes both expedited and non-expedited matters.

On August 22, 2025, Capistrano Unified School District, called Capistrano, filed a request for due process hearing naming Student, in OAH case number 2025081021, and filed a motion for consolidation. OAH granted Capistrano's request for consolidation,

designated Student's case as the primary case, and continued the non-expedited prehearing conference and due process hearing to October 2025. The expedited due process hearing is set to begin September 9, 2025.

The expedited prehearing conference occurred on August 29, 2025. During the expediated prehearing conference, the undersigned granted Mother's request for a public open hearing, and consolidated the Student and Capistrano matters, as requested by Capistrano. While both Student and Capistrano's cases involve the same parties, and overlapping issues and time period, Capistrano named Father in its pleading, and Mother filed her matter on behalf of Student without Father.

At the end of the expedited prehearing conference on August 29, 2025, Mother requested that Father, who also appeared at the prehearing conference, be excluded from this proceeding. She argued his prehearing conference participation violated a domestic violence restraining order between them. She construed his participation as disruptive and that Father was creating unnecessary conflict between them. This was the first time the undersigned learned of a restraining order between them. Mother was ordered to file a written request with the restraining order attached so that a determination could be made.

On September 2, 2025, Mother filed a motion to limit or exclude the participation of restrained person, Father, from this matter, and attached a 2024 restraining order as evidence. Mother argued:

1. She is the sole educational rights holder for Student and Father has no standing in this matter;

2. Father's participation has been disruptive; and

3. Father's participation is an indirect violation of the restraining order.

Mother requested OAH:

1. Exclude Father from direct participation in these proceedings;

2. Alternatively, limit Father's involvement to written submissions through the administrative law judge, without requiring any direct contact with Mother; and

3. Determine Mother as the sole party with standing to represent the Student's educational rights.

On September 2, 2025, Capistrano filed non-opposition to Student's motion to limit or exclude participation of restrained party, Father, and represented that it does not wish to call Father as a witness in the matter. It does not challenge Student's motion to exclude him as a participant in the due process hearing.

On September 3, 2025, the undersigned requested supplemental documentation showing Mother as Student's sole educational rights holder. On September 4, 2025, Mother provided additional documentation regarding her status as Student's educational rights holder, specifically, a March 25, 2025, second amended domestic violence restraining order which expires in October 2026.

DISCUSSION

Having considered the record, the parties' positions, and the applicable law, orders, and facts, the undersigned determined the following:

On March 25, 2025, the Orange County Superior Court issued a second amended domestic violence restraining order which protects Mother and Student from Father. The order awarded Mother sole legal custody. Legal custody was defined as, "The person that makes decisions about the child's health, education, and welfare." The child in the restraining order was Student. The order expires on October 10, 2026. Accordingly, Mother is currently the sole educational rights holder for Student.

California Education Code section 51101, subdivision (d), states that a parent's right to participate in their child's education must not, "conflict with a valid restraining order, protective order, or order for custody or visitation issued by a court of competent jurisdiction." (Ed. Code, § 51101, subd. (c).) California Family Code section 6320, subdivision (a), authorizes a domestic violence restraining order to prohibit conduct that disturbs the peace of the protected party, including harassment, coercive control, or any actions that destroy the mental or emotional calm of the protected party. (Family Code, § 6320, subd. (a).)

The March 25, 2025, second amended domestic violence restraining order restrained Father from harassing; annoying, including through electronic means; and disturbing the peace of Mother, among other things. Disturbing the peace includes destroying the mental or emotional calm, directly or indirectly, and including online.

Here, this matter is consolidated, and although Capistrano named Student in its caption as the respondent, it also listed both Mother and Father underneath the caption. This typically means both parents are the educational rights holders and legal representatives of the minor student. Thus, broadly interpreted, Capistrano listed both Mother and Father as parties in this matter for Student. Thus, Father retains party status for Capistrano's case.

Additionally, at the prehearing conference, Mother requested this matter be opened to the public under 34 C.F.R. section 300.512(c)(2) (2008), which was granted. A public hearing permits anyone to observe, subject to order and decorum of the proceeding. At this time, for special education hearings conducted virtually, observers are ordered to keep their camera and audio off.

While Mother is the sole educational rights holder, Father's status as a named party in Capistrano's case cannot be extinguished absent a request for dismissal of him as a party. Father is also able to attend the hearing as a member of the public unless Mother requests the hearing be closed. Observing virtually with his camera off does not violate the domestic violence restraining order under OAH's conditions for the public at OAH hearings. The undersigned will, however, exercise authority to manage the hearing to ensure it is conducted in an orderly manner, free from harassment, intimidation, or disruption.

ORDER

1. Mother is currently the sole holder of Student's educational rights and possesses the authority to make educational decisions and to participate as Student's representative in this matter.
2. Because Father is named as a party in Capistrano's case in this consolidated matter, Father retains party status for that proceeding, and is afforded certain procedural rights, such as the right to receive notices, filings, and to appear in the consolidated matter.
3. Mother's request to restrain Father from appearing at the proceeding is denied to the extent it seeks to remove Father as a party to the consolidated proceeding, specifically Capistrano's case, and as a public observer.

4. Mother's request to restrain Father from participating in the hearing is granted, in part, to the extent that Father will not participate as a legal representative of Student as he currently does not hold educational rights for Student.

5. Should Father appear at the expedited hearing, he must make his appearance by videoconference on the record, use his correct name as his username in the Zoom application, keep his video and audio off unless ordered otherwise by the ALJ.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings