

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2008090252

ORDER GRANTING MOTION TO
QUASH SUBPOENA FOR THE
APPEARANCE OF DONNALYN
JAQUE-ANTÓN

On April 17, 2009, the Los Angeles Unified School District (District), filed its Motion to Quash the Student's subpoena directing the appearance of Donnalyn Jaque-Antón at the due process hearing in this matter (Motion). In the Motion, District contends that Ms. Jaque-Antón, the District's Associate Superintendent for the Division of Special Education, does not have personal knowledge of the issue in this case: whether Student and Parents are entitled to reimbursement in full for travel expenses incurred by Parents while visiting Student at his out-of-state nonpublic school (NPS) during February 2008. District also contends that the subpoena was not properly served, since a copy of it was sent to the District by mail.

On April 22, 2009, Student timely filed his opposition to the Motion. Student contends that he has effected personal service of the subpoena on April 20, 2009, subsequent to the filing of the Motion. Student further contends that Ms. Jaque-Antón has knowledge of the subject dispute, based upon two e-mails he sent to her subordinate, Eileen Skone-Rees on which he had "cc'd" Ms. Jaque-Antón. He also contends that she had personally approved several disputed expenditures in prior matters, based upon several District documents that bear her name. (Only one of these documents appears to bear her personal signature.) Based upon the foregoing, Student suggests that Ms. Jaque-Antón's declaration in support of the Motion is not truthful. Student contends that Ms. Jaque-Antón's apparent misconduct is relevant to Student's allegation of bias, retribution, and denial of due process.

APPLICABLE LAW

The subpoena provisions of the Administrative Procedure Act, found in California Government Code sections 11450.05 et seq., do not apply in special education due process hearing matters. (Cal.Code Regs., tit. 5, section 3089). The Office of Administrative Hearings (OAH) generally analogizes to the California Code of Civil Procedure with respect to motions pertaining to subpoenas. Code of Civil Procedure section 1987.1 provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare. The court in *People v. Rhone*

(1968) 267 Cal.App. 2d 652, upheld the quashing of a subpoena on the grounds that the defendant had not made a sufficient offer of proof that the witness could testify to information that was relevant to the issue in the case.

DISCUSSION

Student has not demonstrated that Ms. Jaque-Antón has any personal knowledge regarding the only issue in this matter: whether Parents are entitled to reimbursement in full for the travel expenses they incurred in February 2008, while visiting Student at his NPS. Issues pertaining to past disputes between the parties regarding reimbursement, or bias, or retribution, are not at issue in this due process hearing. Consequently, the Motion to Quash is granted.

IT IS SO ORDERED.

Dated: April 24, 2009

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings