

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

v.

JEFFERSON UNION HIGH SCHOOL
DISTRICT and SAN MATEO COUNTY
MENTAL HEALTH

OAH CASE NO. 2009030672

JEFFERSON UNION HIGH SCHOOL
DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009050587

ORDER DENYING STUDENT'S
MOTION TO QUASH SUBPOENAS FOR
BUSINESS RECORDS

On May 19, 2009, Student sent a letter to the Office of Administrative Hearings (OAH) asking that subpoenas for the production of business records issued by the attorney for the Jefferson Union High School District (District) and San Mateo County Mental Health (Mental Health) be quashed.¹ The attorney issued the subpoenas duces tecum (SDTs) to Falcon Ridge Ranch (Falcon Ridge), a Utah business that operates a residential treatment center where Student has been placed by her parents. Falcon Ridge has not filed an objection to the subpoenas, or a motion to quash. The District and Mental Health did not file opposition to the motion to quash.

APPLICABLE LAW

California Code of Regulations, title 5, section 3082, subdivision (c)(2), provides that the hearing officer may issue SDTs upon a showing of reasonable necessity by a party. However, special education law does not specifically address whether an SDT may be issued by an attorney, or what requirements apply. Given that special education law is silent on this

¹ The letter has a heading that states it is "Petitioners' Objection to Business Records Subpoenas," but it appears to be a motion to quash the subpoenas and will be deemed and referred to as such.

topic, OAH analogizes to the relevant portions of the California Code of Civil Procedure. California Code of Civil Procedure section 1985, subdivision (c), provides that an attorney of record in an action may sign and issue an SDT to require production of the matters or things described in the subpoena. OAH permits an attorney of record in a special education matter to sign and issue SDTs consistent with this provision.

California Code of Civil Procedure section 1985, subdivision (b), details the requirements for the issuance of an SDT:

A copy of an affidavit shall be served with a subpoena duces tecum . . . , showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

DISCUSSION

Student's parents seek reimbursement from the District and Mental Health for the costs of her placement at Falcon Ridge. In her motion, Student claims that the attorney for the District and Mental Health issued one or more SDTs for business records from Falcon Ridge.

In her motion to quash, Student raises two arguments. First, she argues that an attorney in a special education proceeding before OAH does not have the authority to issue a subpoena. Next, she contends that the SDTs request tax returns from Falcon Ridge, and she claims that these records are not necessary because Falcon Ridge's tax-filing status is not at issue. However, it cannot be determined exactly what records are sought by the District and Mental Health, or whether the SDTs were properly issued, because copies of the subpoenas are not attached to the motion.

As discussed above in this order's "Applicable Law" section, OAH permits attorneys to issue subpoenas in special education matters in the same manner as they may be issued in a civil matter. However, this ALJ is not aware of any authority that would compel a company that does not do business in California to comply with an SDT issued in a California special education due process matter. Therefore, there does not appear to be a need to quash the SDTs. In addition, it is unclear whether the Student even has standing to

make a motion to quash the STDs that are not requesting information that pertains to her or her family. Accordingly, the motion to quash the SDTs is denied.

ORDER

Student's motion to quash is denied.

It is so ordered.

Dated: June 25, 2009

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings