

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL DISTRICT
AND LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011020212

ORDER DENYING STUDENT'S
MOTION TO COMPEL WITHOUT
PREJUDICE

On June 3, 2011, Student moved to compel documents from District. Student alleged that District failed to comply with his educational records request, specifically, his request for logs and other documentation concerning special education resource specialist services (RSP) and special education related services such as designated instructional service (DIS) counsel, and adult assistance services. Student also alleged that District failed to specify by category of document request whether it fully complied with the request.

On June 7, 2011 District opposed Student's motion to compel documents. District maintained that the IDEA does not authorize discovery equivalent to the civil discovery demanded by Student, and even if Student's document demands were authorized by the IDEA, District fully complied with Student's demands.

APPLICABLE LAW

Before a hearing, parent or guardians "have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after an oral or written request is made by the parent or guardian." (Ed. Code, § 56043, subd. (n).) A party to a due process hearing under the Individuals with Disabilities Education Act (IDEA) has the right to present evidence and compel the attendance of witnesses at the hearing. (20 U.S.C. § 1415(h)(2); Ed. Code, § 56505, subd. (e).)

DISCUSSION

Student alleges that he has not received a complete copy of school records relevant to the hearing. With the exception of documentation related to District's implementation of offered special education related services, Student is vague about whether he received the documentation relevant to his claims. As to all requested categories Student demands that

District prepare a comprehensive declaration confirming with specificity the scope of the production and search. Given the extensive documentation of District's overall compliance with Student's document demands, and the availability of a less burdensome alternative, Student's request for a comprehensive declaration as to all categories is denied. Instead, the parties shall meet and confer prior to the first day of hearing to discuss any omitted documents, and at Student's request, District shall make available witness(es) at the hearing that functioned as the custodian of records and had direct knowledge of District's search for educational records requested by Student, and who can testify as to District's search and collection of documents as to all categories requested.

Student claims that District failed to produce logs of special education services. Communications between the parties indicates that District did provide documentation, especially after Student filed his motion to compel. As part of their meet and confer, the parties shall also address Student specific allegation that District failed to provide logs or other documentation, confirming the date and time of delivery of special education services, including, but not exclusive to, all RSP support services (pull out and push-in), designated instructional service (DIS) counseling services, and adult aides and assistance. At Student's election, District shall make available for hearing witnesses, in addition to the custodian(s) of records, that can testify about service logs or documentation of Student's special education related services, or the provision of services.

ORDER

1. District and Student shall meet and confer no later than noon, Thursday, June 9, 2011, to discuss any omitted documentation, and at Student's election make available witness(es) at the hearing that functioned as the custodian of records and had direct knowledge of District's search for educational records requested by Student. With respect to logs and documentation of Student's special education related services, at Student's election, District shall also make available special education service providers that can testify about the provision of special education related services and documentation of services.

2. Student's motion to compel is denied without prejudice.

IT IS SO ORDERED.

Dated: June 08, 2011

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings

