

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

DESERT SANDS UNIFIED SCHOOL
DISTRICT and RIVERSIDE COUNTY
DEPARTMENT OF MENTAL HEALTH.

OAH CASE NO. 2009080282

ORDER REGARDING PRODUCTION
OF DOCUMENTS AND IMPOSING
PROTECTIVE ORDER

Pursuant to the December 22, 2009 Order of the undersigned Administrative Law Judge (ALJ), Dr. Nancy Shannon provided the ALJ with her records of Student for in camera review by the ALJ. On January 6, 2010, the ALJ held a telephonic recorded hearing regarding the Department of Mental Health's (DMH's) request that the documents be produced. During the hearing, Student was represented by advocate Martha Haynes. The District was represented by attorney Karen Van Dijk. The Department of Mental Health was represented by attorney Sharon Watt.

Neither Student nor Dr. Shannon had moved to quash the subpoena served by DMH on Dr. Shannon. In her pleadings and at the hearing on January 6, Student's only expressed concern was that records concerning Student's Parents or siblings not be disclosed as they are covered by the psychotherapist-patient privilege which none of those individuals have raised. Student did not object to the production of those records which solely pertain to her.

The progress notes provided by Dr. Shannon only reference individual sessions with Student and family sessions concerning Student's treatments. There are no records that indicate sessions only held with Parents or Student's siblings. The ALJ will therefore provide copies of the progress notes to the parties, along with records solely pertaining to Student. As agreed to by counsel for DMH, the ALJ will not provide copies of records already in DMH's possession, copies of health insurance claims, or copies of waivers for release of information. Nor will the ALJ provide copies of information that solely pertains to Student's Parents.

The ALJ also orders that the parties are prohibited from using the records for any matter other than the instant due process hearing and are prohibited from disclosing the records to anyone other than the legal representative(s) of the parties and/or to the parties' respective expert witnesses.

Finally, this order does not address whether the records in question are relevant or admissible for purposes of the due process hearing. Should any party wish to introduce the

records at hearing, their relevancy and/or admissibility will be addressed by the ALJ hearing the matter.

IT IS SO ORDERED.

Dated: January 11, 2010

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings