

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. VICTOR VALLEY UNION HIGH SCHOOL DISTRICT,	OAH CASE NO. 2012090744
VICTOR VALLEY UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012070653 ORDER QUASHING SUBPOENA FOR APPEARANCE OF DEPUTY DISTRICT ATTORNEY

On September 2, 2012, Student subpoenaed San Bernardino County Deputy District Attorney (DDA) Briann Durose, ordering her to appear at a hearing in this matter scheduled for January 30, 2013. There is no evidence that the subpoena included the required declaration establishing reasonable necessity for calling DDA Durose to testify. The San Bernardino District Attorney's office filed a motion to quash the subpoena on January 4, 2013, which was supported by a copy of the subpoena and a declaration under penalty of perjury from DDA Durose. Student did not file an opposition to the motion to quash.

A party to a due process hearing under the Individuals with Disabilities in 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, subs. (e)(2), (3).) The provisions of the Administrative Procedure Act governing subpoenas do not apply to special education hearings. (Cal. Code Regs., tit. 5, § 3089.) Subpoenas may be issued upon a showing of reasonable necessity by a party. (*Id.*, § 3082, subd. (c)(2).)

Student has failed to provide any evidence establishing a reasonable necessity for compelling DDA Durose to testify, including whether she possesses knowledge of any evidence that would be relevant to the issues in this proceeding. On the other hand, DDA Durose declared under penalty of perjury that she has no direct or indirect involvement in any issue that would come before the Administrative Law Judge in this proceeding. DDA Durose declared that her interaction with Student or his mother was limited to one occasion when she attended a School Attendance Review Board meeting for the sole purpose of

explaining truancy law to Student and his mother. She has no knowledge of or relevant involvement in the development of Student's educational program.

Accordingly, Student's subpoena dated September 24, 2012, for the appearance of Deputy District Attorney Briann Durose, is quashed.

Dated: January 11, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings