

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

FOLSOM CORDOVA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009090847

ORDER DENYING MOTION TO  
COMPEL

On October 26, 2009, Student filed a Motion to Compel Production of Documents (Motion). In particular, Student sought an order compelling the District to produce educational records regarding Student that it had acquired since Student filed for due process, employment records related to personnel qualifications, and documents regarding Student's class schedule and schoolwork. The District opposed the Motion on October 29, 2009. In its opposition, the District stated its willingness to produce any additional student records it had received after September 25, 2009 and a willingness to produce any employee records that were not privileged under Government Code section 6253, the Public Records Act.<sup>1</sup> In a

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<sup>1</sup> Government Code section 6253, provides:

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

sworn declaration from Dr. Larry Gillham, the District demonstrated that it has twice provided Student's records up to September 25, 2009, but agreed to provide Student with any additional records about Student obtained after that date. Dr. Gillham's declaration also demonstrated District's willingness to provide non-privileged information about teacher qualifications if Student clarified his request. On November 1, 2009, Student filed an additional document seeking records regarding teacher qualifications under the federal "No Child Left Behind" law. On November 3, 2009, the District filed a reply stating that it would also voluntarily produce any non-privileged documents regarding teacher qualifications under "No Child Left Behind."

Here, the District has demonstrated that it has met, and continues to be willing to meet, its obligation to produce Student's records under the IDEA as stated in Education Code sections 56501, subdivision (b) and 56504. To the extent Student seeks other documents, such as information about teacher qualifications, such documents would not fall within Education Code section 56504. However, the District has stated without reservation that it will produce all non-privileged documents under Government Code section 6253 and "No Child Left Behind." Further, since Student filed the Motion, the hearing has been continued to December 14, 2009, giving Student ample time to review public records that are not otherwise required to be produced under Education Code section 56504. Under these facts, a motion to compel is not necessary and is denied.

It is so ordered.

Dated: November 04, 2009

/s/

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RICHARD T. BREEN  
Administrative Law Judge  
Office of Administrative Hearings

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- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
- (d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.
- (e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.