BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VISTA OAKS CHARTER SCHOOL.

OAH CASE NUMBER 2026021021

ORDER GRANTING MOTION TO QUASH SUBPOENA DUCES TECUM FOR ATTORNEY DEBRA FERDMAN

JULY 9, 2026

On February 24, 2026, Parents on behalf of Student filed with the Office of Administrative Hearings, called OAH, a request for due process hearing naming Vista Oaks Charter School. A request for due process hearing is called a complaint.

OAH granted Student's request to amend the complaint and deemed the amended complaint filed April 2, 2026. On May 11, 2026, OAH continued the hearing for good cause. On June 26, 2026, OAH granted a further continuance for good cause and set the hearing for July 21, 22, and 23, 2026.

On May 21, 2026, Student issued a subpoena deuces tecum for Attorney Debra Ferdman, Vista Oaks' counsel, to produce records. On May 21, 2026, Student emailed the subpoena to Ferdman.

The subpoena duces tecum requests Attorney Ferman produce copies of various assessment reports which are dated as early as 2015. Student's declaration in support of the subpoena does not explain why the records sought are material to the issues to be heard and decided in this matter.

On June 25, 2026, Vista Oaks filed a motion to quash the subpoena deuces tecum for Attorney Ferdman. Vista Oaks contends the subpoena should be quashed because the subpoena was not properly served on the correct person, failed to demonstrate reasonable necessity to produce the sought records, and the request was overly broad, vague and burdensome. Student filed an opposition on June 26, 2026. On June 26, 2026, OAH held a prehearing conference in this matter. The parties presented further arguments on their positions with respect to the motion to quash.

A party to a due process hearing under the Individuals with Disabilities in Education Act has the right to present evidence and compel the attendance of witnesses in "a hearing conducted pursuant to subsection (f) or (k)" of section 1415 of title 20 of the United States Code. (20 U.S.C. § 1415(h); see also Ed. Code, § 56505, subd. (e).)

In California, the hearing officer in a special education proceeding shall have the right to issue a subpoena, which is an order to appear and give testimony and a subpoena duces tecum, which is an order to produce documents or papers upon a showing of reasonable necessity by a party. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This requirement mirrors that required by Code of Civil Procedure section 1985, subdivision (b), which requires:

> 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.

The good cause requirement is met by a factual showing of why the requested documents or things are material and relevant to the litigated issues. (*Johnson v. Superior Court* (1968) 258 Cal. App.2d 829, 835-836; see also *Seven Up Bottling Company v. Superior Court* (1951) Cal. App.2d 71, 77.)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions, OAH relies by analogy on the relevant portions of the Code of Civil Procedure. Code of Civil Procedure section 1987.1, provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders.

THE SUBPOENA DUCES TECUM FAILS TO DEMONTRATE REASONABLE NECESSITY FOR THE RECORDS

The declaration in support of the subpoena for records fails to include a description of how the requested records are necessary for Student to present his case on the issues to be heard and decided in this matter. The subpoena does not explain how the records sought are material to Student's claims.

The subpoena also fails to demonstrate why a subpoena is necessary for Student to obtain these records rather than obtaining copies of the requested assessment reports under Education Code section 56504. Education Code section states in relevant part, "[t]he parent shall have the right and opportunity to examine all school records of his or her child and to receive copies…within five business days after the request is made by the parent, either orally or in writing." Accordingly, the subpoena duces tecum is quashed because it fails to show the subpoena duces tecum is necessary and fails to demonstrate why the assessment reports sought are reasonably necessary for Student to prove his claims.

THE SUBPOENA DUCES TECUM FAILS TO ESTABLISH ATTORNEY FERDMAN IS THE PROPER PERSON TO SUBPOENA

The subpoena does not seek production of the assessment reports from Vista Oaks' custodian of records. Instead, the subpoena directs Vista Oak's counsel to produce records. However, the subpoena fails to demonstrate Attorney Ferdman possesses or has under her control, the requested assessments to enable Ferdman to comply with the subpoena. Vista Oaks included a declaration by Ferdman in support of the motion to quash. Ferdman declared that she does not maintain or possess any of the records sought in the subpoena duces tecum. Accordingly, the subpoena duces tecum is quashed because Attorney Ferdman is not the proper person to produce the requested assessment reports.

ORDER

Vista Oaks' motion to quash Student's subpoena duces tecum to Attorney Debra Ferdman is granted. The subpoena for records to Attorney Debra Ferdman is hereby quashed.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings