BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CARLSBAD UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025080784

ORDER GRANTING MOTION TO COMPEL COMPLIANCE WITH SUBPOENA DUCES TECUM ON SANDERLING WALDORF SCHOOL

OCTOBER 30, 2025

On August 18, 2025, Parents on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings naming Carlsbad Unified School District. The Office of Administrative Hearings is called OAH. Carlsbad Unified School District is called Carlsbad.

On September 4, 2025, an order granting a continuance in this matter was granted scheduling the case for hearing on November 4, through 6, 2025.

On October 10, 2025, Carlsbad issued and served a subpoena duces tecum on Sanderling Waldorf School, called Sanderling. A notice to consumer was sent to Student advising Student of the subpoena duces tecum directed to Sanderling. A copy of the subpoena duces tecum was sent to Student with the notice to consumer.

The subpoena duces tecum to Sanderling sought the following documents:

1. Any and all Sanderling admission and/or enrollment agreements and/or contracts for Student from January 1, 2023 through the present;
2. Any and all Sanderling admission and/or enrollment records for Student from January 1, 2023 through the present;
3. Any and all Sanderling Waldorf attendance records for Student from January 1, 2023 through the present;
4. Any and all records regarding payment of Student's tuition for Sanderling Waldorf, including but not limited to, invoice, receipts, and contracts;
5. Any and all records regarding payment of any and all costs or fees related to Student's attendance at Sanderling Waldorf, including but not limited to, invoices, receipts, and contracts;
6. Any and all Sanderling Waldorf report cards for Student;
7. Any and all Sanderling Waldorf progress reports for Student;
8. Any and all assessment reports for Student, including but not limited to, admissions assessments, standardized assessments, benchmark assessments, and/or disability related assessments;
9. Any and all records regarding implementation of any or all of Student's individualized education plan ("IEP") while Student attended Sanderling;
10. Any and all records regarding implementation of any or all of Student's individualized services plan ("ISP") while Student attended Sanderling;

11. Any and all records, including but not limited to notes, curriculum, logs, work samples, lesson plans, and/or collected data, related to any and all specially designed educational instruction provided to Student while Student attended Sanderling;
12. Any and all records, including but not limited to notes, curriculum, logs, work samples, lesson plans, and/or collected data, related to any and all specially designed educational services provided to Student while Student attended Sanderling;
13. Any and all Sanderling Waldorf attendance records for Student;
14. Any and all correspondence, including but not limited to, letters, emails, notes, and/or services provided to Student while Student attended Sanderling;
15. Any and all correspondence, including but not limited to, letters, emails, notes, and/or text messages between Sanderling Waldorf staff and Student's father, Harry Lesgold;
16. Any and all correspondence, including but not limited to, letters, emails, notes, and/or text messages between Sanderling Waldorf staff and Student's mother, Antonia Lesgold.

On October 20, 2025, a representative of Sanderling sent Carlsbad's attorneys a copy of the notice to consumer completed by Sanderling, not Parents, stating "I object to the production of all of my records specified in the subpoena," with the grounds for objection as Sanderling was "[u]nder resourced to provide all of this. Also, we do not have the same types of records & assessments as public school." Parents did not file an objection to the subpoena duces tecum, or a motion to quash the subpoena duces tecum. At the prehearing conference held October 27, 2025, Parent appeared on behalf

of Student and stated on the record that Student would be submitting himself much of the same documentation sought in the subpoena duces tecum to Sanderling.

A party to a due process hearing under the Individuals with Disabilities Education Act, called the IDEA, 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 special education proceedings in California, the hearing officer shall have the right to issue subpoenas, or orders to appear and give testimony, and subpoenas duces tecum, or orders to produce documents or papers, upon a showing of reasonable necessity. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This requirement is similar to, but less stringent than, that required by Code of Civil Procedure section 1985, subdivision (b), which requires a showing that 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.

Here, Sanderling's objection to production on behalf of the consumer, who did not object himself, was improper. A subpoena duces tecum has been properly issued

and served on Sanderling, and Sanderling must produce the documents requested, although the categories will be modified as ordered below.

The categories of documents sought by the subpoena duces tecum, as modified by this order, do not appear unduly burdensome, and Sanderling cannot avoid production by claiming it is under-resourced. Sanderling's objection that it is not a public school required to comply with the IDEA is irrelevant to compliance with a properly issued and served subpoena duces tecum.

The subpoena duces tecum to Sanderling included a declaration of necessity, explaining that Student is seeking reimbursement to Parents for the costs of enrollment at Sanderling. It also explains that Student must prove the private placement was proper, and that OAH may take into consideration the conduct of both parties when determining appropriate remedies.

Since the issuance of the subpoena duces tecum, Student has withdrawn claims related to the 2024-2025 school year. Accordingly, all categories in the subpoena duces tecum to Sanderling are modified to require production of documents only for the period from January 1, 2023, through the end of the 2023-2024 school year and 2024 summer programs offered by Sanderling. That limitation conforms the documents sought to the issues in this due process proceeding, and should significantly lessen the burden on Sanderling.

In addition, certain of the categories of documents sought are limited as follows:

Category 8: Assessments are limited to those maintained by Sanderling in Student's educational records or by Sanderling staff.

Category 11: Records are limited to logs, work samples, and/or collected data related to any and all educational instruction specially designed for, and provided to, Student while Student attended Sanderling.

Category 12: Records are limited to logs, work samples, and/or collected data related to any and all educational services specially designed for, and provided to, Student while Student attended Sanderling.

Category 14: Deleted. Carlsbad's declaration of necessity, and its explanation in the motion to compel, are insufficient to support a request for "Any and all correspondence, including but not limited to, letters, emails, notes, and/or services provided to Student during attendance at Sanderling." A category seeking any and all correspondence without limitation is overbroad and burdensome, and unlike other categories, does not appear to be reasonably necessary for Carlsbad to defend against Student's proposed remedies.

Categories 15 and 16: This category is limited to any and all correspondence, including but not limited to letters or notes maintained in Student's files by Sanderling or its staff, and emails, and/or text messages, between Sanderling Waldorf staff and Student's father and/or mother related to Student's attendance and/or performance at Sanderling. Emails or text messages by or to Sanderling staff should be readily accessible by a simple search of each parent's name or telephone number.

To the extent Sanderling does not have any documents that comply with a specific category, Sanderling shall include a sworn statement to that effect, broken down by category, with its production.

ORDER

1. Carlsbad's motion to compel Sanderling's compliance with Carlsbad's subpoena duces tecum is granted. The documents must be produced by Sanderling by uploading the documents as described in the subpoena duces tecum, for the Administrative Law Judge to access on the first day of the hearing in this matter.
2. All categories of Carlsbad's subpoena duces tecum to Sanderling are modified to apply only to the time period from January 1, 2023, through the end of the 2023-2024 school year and 2024 summer programs offered by Sanderling.
3. Categories 8, 11, 12, 14, 15, and 16 are modified as specified in the body of this Order.
4. Carlsbad shall immediately serve a copy of this Order on Sanderling.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings