BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GROSSMONT UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2015010860 ORDER DENYING REQUEST TO ISSUE SUBPOENAS DUCES TECUM

This matter is set for hearing on April 7, 2015. On March 19, 2015, Student filed with OAH a request to issue five subpoenas duces tecum (SDT's) commanding Tiffany Blackwood, Sara Keeper, Jennifer Mays, Debbie Rodriguez, and Rose Tagnese to produce documents. The request is denied for the following reasons:

All five SDT forms are incomplete, as they consist only of the first page of OAH's subpoena form, which is a two-page, two-sided document. Several items critical to the validity of a subpoena appear on the absent second page. The most important of these is the statement of reasons for issuance of the SDT which the declarant is required to sign under penalty of perjury and which must contain a satisfactory explanation of why there is "reasonable necessity" for issuing the subpoena (5 Cal. Code Regs. § 3082, subd. (c)(2)) by explaining what the documents are, how they bear on the case, and why a subpoena is necessary to obtain them. The second page of the form also contains spaces for the information essential to showing valid service of the subpoena.

In addition, the descriptions of the records sought are inadequate in at least three of the SDT's, and possibly all five. The Blackwood, Mays, and Rodriguez SDT's lack any description of the records sought. The Keeper SDT defines the record sought only as "logs pertaining to [Student]," and the Tagnese SDT seeks "any and all records/assessments in file related to [Student]," without limitation as to time or relevance. In context these may be insufficient descriptions of the records to be compelled.

Finally, none of the subpoenas demonstrates compliance with the consumer notice provisions of Section 1985.3 of the Code of Civil Procedure.[1]

As a result of the incompleteness in inadequacies of the forms submitted by Student, the proposed subpoenas lack the legally required showing for issuance. The request to issue them is DENIED.

DATE: March 20, 2015

/S/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings

[1] This description of defects in the proposed subpoenas is not intended to be exhaustive, and is made without prejudice to any argument that any of the proposed recipients may make in the future concerning similar subpoenas that may be sought and served.