BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026031036

ORDER GRANTING MOTION TO QUASH SUBPOENAS DUCES TECUM TO LUIS DIAZ, STEVEN YBARRA, ALEJANDRO OLMOS, AND CYNTHIA HARTSHORN

JULY 2, 2026

On March 20, 2026, Student filed with the Office of Administrative Hearings, called OAH, a request for due process, called a complaint, naming Riverside Unified School District, called Riverside. Student's complaint alleged both expedited and non-expedited issues. The non-expedited hearing on Student's expedited issue is scheduled to begin on July 8, 2026.

Student alleged two non-expedited issues in his complaint, clarified at the June 26, 2026 prehearing conference, called a PHC, as:

1. Did Riverside deny Student a FAPE by failing to convene an IEP team meeting to consider supports and services for Student as agreed between Parent and Riverside on October 6, 2025?
2. Did Riverside deny Student a FAPE from December 2024 through March 19, 2026, by failing to appropriately assess Student in all areas of suspected educational need, including attention, autism-related needs, social emotional concerns, and behavior

On June 27, 2026, Student served subpoenas duces tecum on the following Riverside administrators:

- Steven Ybarra, Riverside's Principal of Arlington High School
- Luis Diaz, Riverside's Assistant Principal of Arlington High School
- Alejandro Olmos, Riverside's Assistant Principal of Arlington High School
- Cynthia Hartshorn, Riverside's Special Education Local Plan Area Director

The subpoenas duces tecum directed production to be made to Parent no later than June 30, 2026. An email accompanying each subpoena duces tecum extended the compliance deadline to July 2, 2026.

The subpoenas duces tecum were all very similar. Each sought seven to nine categories of production, described over nine to eleven pages, with complicated instructions, exclusions, and occasional pleas for priority over certain categories over others. In general, the requests were broad, vague, with multiple subparts, and were difficult to understand, for example:

> Records maintained by, maintained for, authored by, received by, or actually relied upon by Luis Diaz that are sufficient to show whether Luis Diaz was aware of, documented, received, routed, or referred concerns

involving any of the following suspected areas of need for [Student]…(j) attendance, school avoidance, peer conflict, or school-functioning concerns, but only to the extent connected on the face of the record to suspected disability-related needs, assessment or reassessment, Section 504 status, IDR supports, IEP, counseling/check-ins, accommodations, ERMHS, behavior supports, FBA, pragmatic/social communication concerns, or other school-based supports.

This subpoena is limited to final or maintained student-specific Arlington High School records showing IDR implementation, non-implementation, check-ins, school-based supports, accommodation notice, support assignment, documented referral, documented non-referral, documented decision not to refer, documented site-level notice of suspected disability-related needs, or documented special education / 504 / assessment / support information relevant to educational services, placement, or change-of-placement decision-making….

Several of the subpoena duces tecum included a description of the issues in the non-expedited case as:

1. Whether [Riverside] failed to comply with the October 2025 IDR agreement, including implementation of identified accommodations, supports, or check-ins;
2. Whether [Riverside] failed or refused to assess [Student] in all suspected areas of disability-related need;
3. Whether [one of Riverside's schools] documented notice of suspected disability-related needs relevant to Child Find, basis of knowledge, assessment, reassessment, FBA, ERMHS, Section 504, special education

referral, speech/pragmatics, social communication, behavior, mental health, or school-based supports; and

4. Whether [one of Riverside's schools] maintained or transmitted special education, 504, IDR, assessment, support, accommodation, or disability-related information relevant to educational services, disciplinary removal, placement, or change-of-placement decision-making.

Parent's declaration of necessity, attached to each subpoena duces tecum and varying from five to six pages, conceded only two remaining issues for hearing, which he defined as "whether [Riverside] failed to comply with the October 2025 IDR agreement, including implementation of identified accommodations, supports, or check-ins" and whether Riverside failed or refused to assess Student in all areas of suspected disability. Parent declared that the broad sweep of documents sought were "directly material to whether Riverside complied with the IDR agreement," and failed or refused to assess Student in all areas of suspected disability. He stated records would show "what school-site concerns were documented" regarding Student's educationally-related performance.

On July 2, 2026, Riverside filed a motion to quash all four subpoenas duces tecum, each on multiple grounds, which included:

- The categories sought are overbroad and vague;
- Student has not demonstrated reasonable necessity for the production sought;
- Student seeks impermissible pre-hearing discovery; and
- The subpoena duces tecum was served with insufficient time to locate and produce the broad categories of documents sought.

Riverside's motions were each supported by the declaration of its attorney demonstrating good cause for not bringing the motions three days prior to the June 26, 2026 PHC, demonstrating that Student had served copies of the subpoenas duces tecum on Riverside on June 27, 2026, and attaching a copy of each subpoena duces tecum.

Student filed one joint opposition on July 2, 2026, requesting all Student's subpoenas duces tecum be narrowed or modified, and not quashed. Student argues the records sought are related to the non-expedited issues, and are Student-specific.

A party to a due process hearing under the Individuals with Disabilities Education Act, called 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 has the right to issue subpoenas and subpoenas duces tecum ordering production of documents on a showing of reasonable necessity. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).)

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.

NO RIGHT TO PREHEARING DISCOVERY

In general, there is no right to prehearing discovery in due process proceedings under the IDEA. (20 U.S.C. § 1400 et seq.) Rather, the IDEA provides parties with the right to present evidence and compel the attendance of witnesses at a due process hearing. (20 U.S.C. § 1415(h).) California provides a similar right to present evidence and compel the attendance of witnesses in due process proceedings (Ed. Code, § 56505, subd. (e)), but does not confer the right to prehearing discovery.

Education Code section 56505, subdivision (a), provides that the state hearing shall be conducted in accordance with regulations adopted by the board, and under that authority the Department of Education promulgated at section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of subpoenas and subpoenas duces tecum. These regulations specifically disallow the provisions of the Administrative Procedures Act that provide broader authority for the use of subpoenas in other administrative hearings. (5 Cal. Code Regs., tit. 5, § 3089, [inapplicability of Gov. Code, §§ 11450.05-11450.30 to due process hearing procedures].)

While subpoenas duces tecum are authorized in special education hearings, their use must be consistent with the legislative and regulatory framework of these proceedings. Prehearing discovery in special education cases at the administrative hearing stage is limited. Parents or adult students are entitled to request copies of the educational records, relating to the student in question, that are maintained by the school district. (Ed. Code, § 56504; *Burnett v. San Mateo Foster City School District* (9th Cir. 2018) 739 Fed. Appx. 870, 873.) The parties are also entitled to disclosures of any evidence an opposing party plans to introduce at hearing five business days prior to the date of the first day of hearing. (Ed. Code, 56505, subd. (e)(7).)

Student's subpoenas direct the subpoenaed individual to produce the requested records to Parent on June 30, 206, extended to July 2, 2026, which is one week prior to the non-expedited hearing date. Student has no statutory right to pre-hearing discovery. Student's subpoena should have been returnable on the first day of hearing.

Student knows this, because Student's multiple subpoenas duces tecum for the expedited hearing were quashed by Orders dated June 5, 2026, in part because Student directed compliance prior to the first day of the expedited hearing. Moreover, Parents and Student's advocate were expressly told on the record by the undersigned ALJ at the June 26, 2026 PHC for the non-expedited hearing that Student did not have the right to direct production of documents by a subpoena duces tecum prior to the first day of the non-expedited hearing on July 8, 2026. Yet, Student served the subpoena duces tecum on Mr. Diaz, Mr. Ybarra, Mr. Olmos, and Ms. Hartshorn requiring production on July 2, 2026.

Parent disregarded the ALJ's instruction not to seek production of documents prior to the first day of hearing. For this reason, the ALJ declines to belatedly modify the date for production and the subpoenas duces tecum are quashed in their entirety. Nonetheless, Riverside's other grounds are addressed as separate grounds to quash the subpoenas duces tecum.

OVERBROAD, VAGUE, AND IRRELEVANT

Riverside argues that the subpoenas duces tecum should be quashed because the categories of records sought are overbroad, vague, and/or irrelevant. This is most apparent in the confusion engendered by Student's recitation of four issues for the non-expedited hearing that are different from, and in excess of, the two pleaded in Student's

complaint, the two issues clarified at the June 26, 2026 PHC, and the two referenced in Parent's declaration of necessity.

The first issue is whether Riverside denied Student a FAPE by failing to follow through with an agreement between Parents and Riverside regarding an individualized education program, or IEP, team meeting and accommodations. That agreement involved one IEP and a small list of accommodations. Parents declaration of necessity did not explain how pages and pages of production categories, in addition to over a thousand pages of Student's educational records already produced, are necessary for Student to prepare and present his case on the first issue.

The declaration of Riverside's attorney demonstrates that Student has already received over 1,000 pages of assessment reports and protocols related to Riverside's assessments of Student. School district assessments, directed by statute, contain questionnaires to teachers and observations done both in the classroom and during unstructured time. Parent fails to identify any assessment that Student contends failed to account for teacher or administrator information not in Parent's or Student's possession. Parent's declaration of necessity falls far short of showing that the broad swaths of files, communications, and documents are relevant to the second remaining hearing issue, let alone material or necessary to Student's presentation of his case.

In addition, the scope of the requests would require the Riverside to identify multiple staff members across departments, search email systems and communication platforms, review large volumes of documents, and screen for privilege and confidentiality. Student's subpoenas duces tecum state they are not looking for privileged communications, but that does not diminish Riverside's burden in having to review voluminous documents for privilege and confidentiality prior to production.

Student appears to have created, for each subpoena duces tecum, a request for production nine to eleven pages long, including any and all documents that could possibly related to Student's case in even the most tangential way. It is not the responsibility of the judiciary "to sift through scattered papers in order to manufacture arguments for the parties." (*Agarwal v. Oregon Mutual Insurance Company* (D. Nev. January 18, 2013, No. 2:11–cv–01384–LDG) 2013 WL 211093, at *3.) Riverside's objections that Student's record categories are overbroad and irrelevant are sustained.

NO SHOWING OF REASONABLE NECESSITY

In addition to overbroad, vague, and irrelevant documents sought, Student has failed to show reasonable necessity for production. The declaration of Parent attached to each subpoena duces tecum makes conclusory statements that the documents sought are "material" and "needed for preparation" for hearing, but fails to provide detailed support for seeking the documents requested. The declaration, in addition to the categories themselves, includes pleas for the categories to be narrowed or modified by the ALJ, but it is Parent's responsibility to make an adequate showing in the declaration of necessity.

More importantly, Parent's declaration purports to address the "necessity" of production without explaining why Student needs subpoenaed documents to prepare and present his case. For example, Category 7 of the subpoena duces tecum to Cynthia Hartshorn requests assessment plans, assessment report, prior written notices, and IEPs from October 6, 2025, through May 31, 2026, although most, if not all, of these documents are educational records already admitted into evidence in the expedited hearing. The two remaining issues in this matter are straight-forward and limited, and Parent's declaration falls short of demonstrating a reasonable necessity for the broad, vague, and irrelevant categories of documents sought.

SERVICE WITH INSUFFICIENT TIME FOR COMPLIANCE

California Code of Civil Procedure section 1985.3, subdivision (d), states that service of a subpoena dues tecum must be made in sufficient time to allow the witness reasonable time to locate and produce the records or copies. Code of Civil Procedure section 2020.410, subdivision (c) defines sufficient time as no earlier than 20 days of the issuance, or 15 days after the service" of the subpoena, whichever is later.

Student's subpoenas duces tecum to Riverside's administrators were issued on June 26, 2026, and served on June 27, 2026. At that time, the hearing was set to begin on July 8, 2026, less than 20 days from the subpoena's issuance. Even considering the generally expedient timeframe for special education due process matters to be heard and decided, Student's subpoenas were untimely. This matter has been pending since March 2026, and Student has had ample time to subpoena these records. For that reason, the subpoena duces tecum must be quashed.

Accordingly, Riverside's motions to quash Student's subpoenas duces tecum on Luis Diaz, Steven Ybarra, Alejandro Olmos, and Cynthia Artshorn, are granted.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings