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 QUASH SUBPOENA DUCES TECUM TO POSITIVE DEVELOPMENT

OCTOBER 30, 2025

On August 18, 2025, Parents on behalf of Student filed a request for due process hearing naming 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 5, 2025, Carlsbad issued and served a subpoena duces tecum on Student's applied behavior analysis provider Positive Development.

On October 16, 2025, Student filed objections and a motion to quash the subpoena duces tecum to Positive Development. Student contends the subpoena duces tecum is overly broad, unduly burdensome, and violates Student's right to privacy.

On October 21, 2025, Carlsbad filed an opposition, contending that the documents sought from Positive Development are reasonably necessary to its defense against Student's claims that Carlsbad should have offered behavior services and the request for reimbursement for Positive Development's services.

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.

Carlsbad's subpoena duces tecum to Positive Development sought the following categories of documents:

1. Any and all admission and/or enrollment agreements and/or contracts for Student from January 1, 2023 through the present;
2. Any and all Positive Development admission and/or enrollment records for Student from January 1, 2023 through the present;
3. Any and all attendance records and/or service logs for Student at Positive Development from August 1, 2023 through the present;
4. Any and all records regarding payment for Student's treatment at Positive Development, 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 treatment at Positive Development, including but not limited to, invoices, receipts, and contracts;
6. Any and all progress reports or report cards for Student related to treatment at Positive Development;
7. Any and all assessment reports for Student, including but not limited to, standardized assessments, informal assessments, benchmark assessments, and/or disability related assessments;
8. 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 instruction provided to Student while Student received services from Positive Development;

9. 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 services provided to Student while Student received services from Positive Development;
10. Any and all correspondence, including but not limited to, letters, emails, notes, and/or services provided to Student while Student received treatment at Positive Development;
11. Any and all correspondence, including but not limited to, letters, emails, notes, and/or text messages between Positive Development's staff and Student's father; and
12. Any and all correspondence, including but not limited to, letters, emails, notes, and/or text messages between Positive Development's staff and Student's mother.

In a copy of the subpoena duces tecum to Positive Development attached to Carlsbad's opposition, the declaration of necessity stated:

> Accordingly, the District needs the records sought to defend against Student's claim that his treatment at Positive Development was proper, to show that it was not proper, and to show that the District did not deny Student a FAPE and was not obligated to offer or provide a FAPE. Additionally, these records are necessary for the District to build its defense against the reimbursement Student is seeking for his treatment at Positive Development, including to demonstrate Parents' conduct and intentions in relation to Student's treatment.

On October 3, 2025, Student withdrew all claims related to the 2024-2025 school year. In addition, at the prehearing conference on October 27, 2025, Parent stated on

the record that Positive Development was Student's applied behavior analysis provider, Positive Development did not provide any school-related services to Student, and Student was not making any claim, or seeking reimbursement or compensatory education, for behavior-related services in the 2023-2024 school year.

Student objects that the categories of the subpoena duces tecum are overbroad because Student is not making any claim against Carlsbad regarding applied behavior analysis and is not seeking reimbursement for Positive Behavior's services. Student's statement on the record that Student is not raising any behavior-related claims, that Positive Behavior did not provide any school-related services, and that Student is not seeking reimbursement for Positive Development's services as a resolution in his due process hearing, establish that the subpoena deuces tecum is overbroad. Carlsbad's declaration of necessity is no longer sufficient to demonstrate that records from Positive Development are reasonably necessary to the presentation of its defense to Student's claims. Student's objection to all categories of the subpoena duces tecum on Positive Development is sustained.

Because Carlsbad's declaration of necessity no longer supports the subpoena duces tecum on Positive Development, and the objection to all categories of the subpoena duces tecum as overbroad is sustained, this Order does not reach Student's other objections as moot.

ORDER

1. Student's motion to quash Carlsbad's subpoena to Positive Development is granted. Positive Development is not required to produce any records sought by the subpoena duces tecum issued by Carlsbad.

2. Student must immediately serve a copy of this order on Positive Development.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings