BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2026060619

ORDER DENYING MOTION FOR PROTECTIVE ORDER

AUGUST 14, 2026

On June 8, 2026, Student filed a request for due process, called a complaint, with the Office of Administrative Hearings, called OAH, naming Union School District. This matter is scheduled for hearing beginning on August 25, 2026.

On August 3, 2026, Union issued subpoenas duces tecum on Dr. Dana Won, Samantha Mitchell, and the custodian of records at Sutter Health. On August 5, 2026, Student filed a motion to quash the subpoenas.

On August 11, 2026, OAH granted Student's motion, in part, to quash Union's subpoenas. Dr. Dana Won was ordered to produce all documents, records, evaluations, notes, communications, and work samples related to Student's learning discrepancy and attention-deficit/hyperactivity disorder, and Student's education and educational

setting, from June 1, 2024, to June 8, 2026. Samantha Mitchell was ordered to produce all documents, records, evaluations, notes, communications, and work samples related to Student's education and educational setting, from June 1, 2024, to June 8, 2026. The custodian of records at Sutter Health was ordered to produce all documents, records, evaluations, notes, communications, and work samples related to Student's learning discrepancy and attention-deficit/hyperactivity disorder, and Student's education and educational setting, from June 1, 2024, to June 8, 2026.

On August 12, 2026, Student filed a motion for clarification and protective order regarding OAH's August 11, 2026, Order. Student contends the Order did not specify how providers must handle records containing both authorized information and unrelated confidential information. Student argues a subpoenaed entity may produce records in response to Union's subpoena that may briefly address Student's education while also containing extensive unrelated and highly confidential information. Student requests that

- subpoenaed entities be ordered to redact portions of records that are outside of the scope of the subpoenas duces tecum;
- prior to the production of records to Union, each subpoenaed entity first provide Parent with the proposed records to be produced for Parent to review; and
- if Parent identifies information she deems outside of the scope of the subpoenas duces tecum, the entity be ordered to produce the records to OAH for an in-camera review before disclosure to Union.

Alternatively, if Parent is not permitted to conduct a pre-production review, Student requests that the subpoenaed entities be ordered to submit any mixed or uncertain

records to OAH for an in-camera review before disclosing the records to Union. Union did not file a response.

In general, there is no right to prehearing discovery in due process proceedings under the Individuals with Disabilities Education Act. (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 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).) 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 "[t]he state hearing shall be conducted in accordance with regulations adopted by the board," and under that authority the Department of Education promulgated section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of 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 Govt. 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. Pre-hearing 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 5 business days prior to the date of the first day of hearing. (Ed. Code, 56505(e)(7).)

Student's concerns are adequately addressed through the procedures already in place for producing documents pursuant to a subpoena duces tecum. On June 12, 2026, OAH issued a Scheduling Order to the parties. Page 36 of the Scheduling Order sets forth the procedure for producing documents pursuant to a subpoena duces tecum, as follows:

> Parties have the right to present evidence at hearing. (Ed. Code section 56505(e)(2).) The hearing ALJ will discuss the evidence the parties want to introduce at hearing at the prehearing conference and on each day of hearing. A subpoena duces tecum is used to compel a person or entity, such as a business, to produce documents for hearing. Neither state or federal special education law provides for access to subpoenaed documents before the start of a hearing. Any subpoenaed documents will be for hearing only. The parties will use Case Center to present their evidence at hearing. Parties who want to know more on how to subpoena a witness to compel the witness to produce evidence can read the Subpoena Duces Tecum form at Subpoenas webpage at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

The form for the subpoena for production of documents available at the webpage link provides details on how subpoenaed records are to be produced, as follows, in relevant part:

> WHAT HAPPENS AFTER THE SUBPOENA IS SERVED

Parties are not allowed access to the documents or physical things requested prior to the beginning of the hearing. The documents may be subpoenaed and used for hearing only. Prior to hearing, the ALJ will review the documents to determine whether they are relevant to the case. If the documents are deemed relevant, on the first morning of the hearing, the ALJ will allow the attorney or unrepresented party to look at the documents on Case Center to see if there are any documents they wish to use as exhibits at hearing. If there are documents the party wishes to add to their exhibits, the party will be given the ability to include those documents in their Case Center section. The party requesting the documents will be given access to download documents they intend to use for impeachment or rebuttal. Issues regarding disclosure of documents a party wishes to include in their Case Center evidence section, that are not being used as impeachment or rebuttal, will be resolved at the time of the hearing.

HOW TO PRODUCE DOCUMENTS OR THINGS OR APPEAR AS A WITNESS BY VIDEOCONFERENCE

Producing Documents

This document provides instructions regarding a subpoena for documents that you received. The subpoena was served by an attorney or party to the case. The subpoena requires you to produce the documents requested to the Administrative Law Judge hearing the case.

Do not send the requested documents to the person who requested them. The Office of Administrative Hearings, also called OAH, uses a software program called Case Center for managing evidence electronically. You will need to upload the documents described in the subpoena into Case

Center. There is a box for your email address on the subpoena. If the box does not contain your email address or your email address is incorrect, you may call OAH at (916) 263-0880 and speak to a case manager. The case manager will ask you for the case number, which you will find on the first page of the subpoena.

OAH must have your email address so that you can upload your response to Case Center. Shortly after you have been served with a subpoena, OAH will send you an email through Case Center. The email will be from "noreply@caselines.com." The email will contain a link to upload your documents into the program at the time requested in the subpoena. The email will specify how long you have access to the link to upload documents.

All records responsive to subpoenas duces tecum are produced to the Administrative Law Judge hearing this matter, not to the parties. The Administrative Law Judge reviews the records to determine whether they are relevant to the case. On the first day of hearing, the Administrative Law Judge allows both parties to examine the records that are deemed relevant. The records may be used for the purposes of hearing only.

Student offers no legal bases for her request for a pre-production review of records or for subpoenaed entities to be required to redact responsive records. Furthermore, parties have no statutory right to pre-hearing discovery in special education cases. Student's request that OAH order the subpoenaed entity to produce records to Student for a pre-production review effectively seeks pre-hearing discovery for Student through Union's subpoenas.

For these reasons, Student's requests for production of records responsive to Union's subpoenas duces tecum to Parent, a pre-production review of responsive records by Parent, and an order to subpoenaed entities for redaction, are denied. Nothing in this Order prevents Parent from requesting the Administrative Law Judge's in-camera review of responsive records on the first day of hearing prior to the release of the records to the parties.

Union is ordered to produce copies of the subpoenas duces tecum to OAH to ensure that the Case Center links are properly sent to the subpoenaed parties.

IT IS SO ORDERED.

Jeanie Min

Jeanie Min
Administrative Law Judge
Office of Administrative Hearings