BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025070025

ORDER GRANTING MOTION TO QUASH SUBPOENAS DUCES TECUM

SEPTEMBER 15, 2025

On June 30, 2025, Student filed a request for due process, called the complaint, with the Office of Administrative Hearings, naming Glendale Unified School District. The Office of Administrative Hearings is called OAH. The hearing was scheduled to begin August 19, 2025, but on August 1, 2025, was continued for good cause to September 23, 2025.

THE SUBPOENAS DUCES TECUM AND OBJECTIONS

On August 29, 2025, Student served six subpoenas on District, directing various District staff to appear at hearing and produce documents on September 16, 2025. The

subpoenas were directed to Emily Weller, Sona Beurejkian, William Gifford, Julienne Chu, Karla Vasquez, and Nina Sahakian, seeking their attendance and the production of various records, including their resumes, credentials and certificates, as well as all notes, emails regarding Student over a two-year period, and videos of Student on the playground (for only Weller and Sahukian).

On September 9, 2025, District filed and served objections to the subpoenas on the individual staff members, on various grounds, including that the subpoenas improperly sought production of documents prior to the September 23, 2025, hearing, was engaged in impermissible discovery, that the subpoenas were overbroad, and that the subpoenas violated Code of Regulations, title 5, section 3082.

On September 10, 2025, Student filed a response to the objections to the subpoenas on the individual staff members. Among other things, Student argues that District did not file motions to quash, and that District's authority does not support the objections raised, and that the fact that the documents are not Student records does not justify withholding them in response to a valid subpoena.

On September 9, 2025, Student also served a subpoena duces tecum directed to District's custodian of records, directing it to produce documents on September 16, 2025. The documents sought include the production of various records, including video footage of Student playing on playground, and all notes and emails regarding Student over a two-year period.

On September 12, 2025, District filed objections to the subpoena on its Custodian of Records on some of the same grounds as it objected to the subpoenas on the individual staff members, among other grounds.

PREHEARING DISCOVERY AND REASONABLE NECESSITY FOR THE RECORDS

In general, there is no right to prehearing discovery in due process proceedings. Rather, the law accords prehearing access to two types of documents. Parents have the right to request and receive the pupil's educational records within five business days at any time, and the parties are entitled to receive copies of all the documents the other party intends to use at hearing, not less than five business days prior to the hearing. (Ed. Code, §§ 56504 & 56505, subd. (e)(7).)

However, the Individuals with Disabilities Education Act, called 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); see also Ed. Code, § 56505, subd. (e).) In special education proceedings in California, "[t]he hearing officer shall have the right to issue Subpoenas (order to appear and give testimony) and Subpoenas Duces Tecum (order to produce document(s) or paper(s) upon a showing of reasonable necessity by a party)." (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) Thus, a subpoena duces tecum seeking production of documents on the day the hearing commences may be appropriate if the requisite showing of "reasonable necessity" is adequately made in a declaration supporting the subpoena and assuming no other legal bar to production exists.

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.

Although labeled as objections, OAH treats District's objections to the seven subpoenas addressed herein as motions to quash those seven subpoenas. Here, all the subpoenas issued by Student are defective because the face of the subpoenas require production on September 16, 2025, a week before the hearing is scheduled to begin on September 23, 2025. The printed instructions on the subpoenas request documents be uploaded at least five business days before the date that documents are required to be produced. This would mean that the demanded documents should be uploaded by the witness five business days before September 16, 2025, the "date documents or things are required."

All seven subpoenas issued by Student are also defective because they are overbroad and Student has failed to make a showing of reasonable necessity for all the requested documents as required by Code of Regulations, title 5, section 3082, subdivision (c)(2). The declarations supporting the subpoenas fail to adequately demonstrate that all the requested documents are "reasonably necessary" for Student to present its case at hearing.

The declarations by Student's counsel contain nothing but vague conclusions regarding reasonable necessity. They do not contain proper specificity explaining how each of the documents is reasonably necessary to any claim, to refresh recollection, to witness credibility or impeachment/rebuttal. Among other things, Student fails to establish reasonable necessity for every communication relating to Student over a two-year period since the beginning of the 2023-2024 school year. Student merely writes that the documents "are within the scope of this current matter." However, the declarations establishing the basis for necessity must specifically explain how and why

each and every one of the documents sought is reasonably necessary to presentation of Student's case. Student made no attempt to do this.

To the extent the subpoenas seek resumes from the individuals, the Order Following Prehearing Conference already requires District to produce resumes for each of the individuals expected to testify as an expert. All individuals to whom Student issued subpoenas are listed on District's prehearing conference statement. Student's subpoenas directed to Weller and District are also defective because they request implementation dates of "Daily Social Facilitation of Challenging Interactions, and Check In/Check Out Sessions" per 504 accommodations. These appear to be interrogatory requests, which are not permitted, rather than document requests.

Student's subpoenas duces tecum appear to be an improper attempt to use the subpoena process as a way to conduct discovery, in which relevance or good cause is sufficient to obtain production. However, under Code of Regulations, title 5, section 3082, subdivision (c)(2), a showing of "reasonable necessity" is required. Student has made no effort to narrowly tailor the subpoenas or make the necessary showing.

However, Parents or adult students are entitled to request copies of 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; see also *Newport-Mesa Unified School District v. State of California Department of Education* (C.D.Cal. 2005) 371 F.Supp.2d 1170, 1173, 1179.) Student has the right to those within five days of the request and no showing of reasonable necessity is required. Nothing in this order prevents Student from making an educational records request.

Accordingly, District's motions to quash the subpoenas duces tecum are granted. Nothing in this order precludes Student from issuing new subpoenas duces tecum and supporting affidavits for the same witnesses, drafted in conformity with this order.

ORDER

1. District's motions to quash regarding the subpoenas directed to Emily Weller, Sona Beurejkian, William Gifford, Julienne Chu, Karla Vasquez, and Nina Sahakian are quashed to the extent it requires any of them to produce documents except as otherwise required by the Order Following Prehearing Conference.
2. District's motion to quash regarding the subpoena directed to District's custodian of records is granted to the extent it requires it to produce documents other than education records except as otherwise required by the Order Following Prehearing Conference.

IT IS SO ORDERED.

Christine Arden

Christine Arden
Administrative Law Judge
Office of Administrative Hearings