BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060347

ORDER DENYING MOTION TO QUASH SUBPOENA DUCES TECUM

NOVEMBER 24, 2025

On June 6, 2025, Student filed a request for due process naming San Diego Unified School District. Following that time, OAH granted continuances in this matter, with the due process hearing currently scheduled to begin on November 25, 2025.

On November 17, 2025, San Diego issued a subpoena duces tecum on The Winston School. The subpoena included a notice to consumer advising Student of the subpoena directed to The Winston School. The subpoena to The Winston School sought the following categories of documents regarding Student:

1. Assessment and evaluation reports, including draft reports, that reference Student or Parents by name, initials, or identification number;

2. Special education documents that reference Student or Parents by name, initials, or identification number;
3. Assessments, report cards, progress reports, and testing data that reference Student or Parents by name, initials, or identification number;
4. Assessment and test protocols that reference Student or Parents by name, initials, or identification number;
5. Communication logs that reference Student or Parents by name, initials, or identification number;
6. Observation notes that reference Student or Parents by name, initials, or identification number;
7. Correspondence, including, but not limited to, letters and emails between:
    a. Staff at The Winston School and Parents regarding Student;
    b. Staff at The Winston School and Meagan Nunez or staff of the Law Offices of Meagan Nunez regarding Student; and
    c. Staff at The Winston School and Dr. Robert Gray;
8. Contracts for service, enrollment records, and registration documents that reference Student or Parents by name, initials, or identification number;
9. Applications or other materials related to admission or enrollment that reference Student or Parents by name, initials, or identification number;
10. Special education service logs that reference Student or Parents by name, initials, or identification number;
11. Attendance records that reference Student or Parents by name, initials, or identification number; and
12. Billing records, including invoices and records of payment, that reference Student and/or Parents by name, initials, or identification number.

San Diego seeks responsive records dated between from May 1, 2023, until November 25, 2025, the first day of the due process hearing.

San Diego previously issued a subpoena duces tecum seeking records from The Winston School in this matter, on July 3, 2025. That request was identical to the subpoena from November 17, 2025, save the end date for records was July 22, 2025, the date that was at that time set as the first day of the due process hearing.

On November 18, 2025, Student filed a motion to quash the subpoena on the grounds that San Diego failed to timely issue the subpoena, failed to provide the required notice to consumer, failed to establish reasonable necessity for the records, and that the subpoena was overly broad.

Although the motion to quash was filed after the prehearing conference, Student established good cause for the late filing of the motion to quash, based on the timing of San Diego's subpoena being issued less than three business days prior to the PHC.

APPLICABLE LAW

A party to a due process hearing under the Individuals with Disabilities in Education Act 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, "[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).)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions, Office of Administrative Hearings, referred to as 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.

SAN DIEGO DID NOT FAIL TO SERVE CONSUMER NOTICE

California law requires that a Notice to Consumer be served on the subject of a subpoena for personal records not less than 10 days prior to the date for production of records plus the additional time required based on the method of service per Code of Civil Procedure section 1013. (Code Civ. Proc., § 1985.3, subd. (b).) Personal records are those records, whether maintained on paper or electronically, that are sought from those providing personal service to a party such as health care providers, psychiatrists, bankers, pharmacists, laboratories, insurance companies, telephone service providers and schools to name a few. (Code Civ. Proc., § 1985.3, subd. (a)(1).) The proof of service of the notice to consumer must be served on the witness from whom documents are being sought. (Code Civ. Proc., § 1985.3, subd. (c)(2).)

Student asserts that the subpoena at issue seeks personal records and the notice of consumer served did not reflect the correct date of production. San Diego argues that it has provided the required notice of consumer and the difference in production date does not invalidate that notice.

It is undisputed that the records San Diego seeks through its subpoena are personal records subject to a notice to consumer.

The notice to consumer that San Diego served with its November 17, 2025, subpoena did contain mistakes in the date for compliance. Specifically, the notice to consumer stated that the date for compliance was October 14, 2025, when in fact it should have been November 25, 2025. However, San Diego previously provided Student with notice when it first subpoenaed records from The Winston School in July 2025. Thus, Student has been on notice of San Diego's intent to seek records since that time. Moreover, Student exercised his right to move to quash the subpoena, which is one of the primary purposes of the notice to consumer. Any clerical error with the notice to consumer provided with the November 17, 2025 subpoena is immaterial and does not invalidate the subpoena here. Accordingly, Student's motion to quash is denied on this ground.

THE WINSTON SCHOOL HAD SUFFICIENT TIME TO COMPLY

California Code of Civil Procedure section 1985.3, subdivision (d), stated 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 thereof." 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.

San Diego's subpoena duces tecum instructs The Winston School to produce copies of the requested documents to the Administrative Law Judge through Case Center no later than November 26, 2025. The due process hearing begins on November 25, 2025, so this is likely a typographical error. Nevertheless, Student's argument that San Diego did not provide The Winston School with sufficient time to comply is moot, because The Winston School has complied with the subpoena and uploaded those documents to OAH through Case Center as of November 21, 2025. There is no indication that additional records are forthcoming or could not be provided prior to the

date required pursuant to San Diego's subpoena. Accordingly, Student's motion to quash is denied on this ground.

REASONABLE NECESSITY FOR THE RECORDS AND SCOPE OF THE SUBPOENA

Student argues that the subpoena duces tecum should be quashed because it fails to make the requisite showing of reasonable necessity for the requested documents with a statement of facts showing the material and relevant information sought.

San Diego's declaration in support of the subpoena states that these documents are necessary because Student has been unilaterally placed at The Winston School. Student seeks reimbursement for that placement as well as prospective nonpublic school placement through the current due process complaint. San Diego anticipates that Student will call staff from The Winston School and that San Diego may need the requested documents for cross examination, and to otherwise litigate Student's claims.

San Diego established reasonable necessity for the requested documents. Student is seeking prospective placement at a nonpublic school as a remedy. Therefore, current information regarding Student's educational needs from The Winston School, and information regarding Student's program at The Winston School, may be necessary for the adjudication of Student's complaint. Nothing about this Order prevents the parties from raising any evidentiary objection when documents are moved into evidence. Accordingly, Student's motion to quash is denied on these grounds.

Student argues that the request for documentation of communications between The Winston School and Dr. Robert Grey is not limited to correspondence regarding Student, and is therefore overbroad.

Student's argument is not persuasive. All the requested categories of documents are specifically regarding Student. The request is not overbroad for that reason. Accordingly, Student's motion to quash is denied on this ground. Accordingly, Student's motion to quash is denied on this ground.

ORDER

1. Student's motion to quash San Diego's subpoena to The Winston School is denied. The records shall be produced by The Winston School to the Administrative Law Judge through Case Center no later than 9:30 am on November 25, 2025.
2. Counsel for San Diego shall immediately serve a copy of this order The Winston School and shall copy Student's counsel on that communication.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings