BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026031036

ORDER GRANTING MOTION TO QUASH SUBPOENA DUCES TECUM ON MICHAEL D'AMICO

JUNE 5, 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. An expedited hearing on Student's expedited issue is scheduled to begin on June 9, 2026.

On May 28, 2026, Student issued a subpoena duces tecum on Michael D'Amico, Riverside's Coordinator, Special Education. The subpoena sought the following categories of documents to be produced on June 2, 2026:

Category 1: Communications, records, memoranda, and administrative discussions regarding reassessment requests, reassessment considerations, reevaluation discussions, or related educational programming discussions concerning Student

Category 2: Communications, records, memoranda, and administrative discussions regarding Prior Written Notices (PWNs), reassessment denials, accommodations, educational supports, services, or related special education determinations concerning Student

Category 3: Communications, records, memoranda, and administrative discussions regarding Child Find considerations, suspected disabilities, behavioral supports, interventions, accommodations, services, or related educational programming discussions concerning Student

Category 4: Communications, records, memoranda, and administrative discussions regarding CDE findings, IDR implementation, compliance, discussions, educational programming, or related assessment and support discussions concerning Student

Category 5: Communications, including emails and internal messaging communications, regarding assessment requests, educational supports, Child Find considerations, accommodations, services, behavioral supports, educational placement, or related educational programming concerning Student

On June 3, 2026, Riverside filed a motion to quash the subpoena duces tecum on the grounds that:

- The categories sought are overbroad and irrelevant;

- Student improperly seeks privileged communications and internal deliberations;
- Student seeks impermissible pre-hearing discovery; and
- The emails sought are not student records.

Riverside argues that, in addition to these objections, the declaration attached to Student's requests fails to demonstrate reasonable necessity for the record sought, or the materiality of the records to Student's case.

Student filed an opposition on June 4, 2026, requesting the subpoena duces tecum be modified, and not quashed. Student argues the records are related to expedited and 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).) This requirement mirrors that required by Code of Civil Procedure section 1985, subdivision (b), which requires:

> A copy of an affidavit shall be served with a subpoena duces tecum . . ., showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in

the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

The good cause requirement is met by a factual showing of why 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.

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 subpoena directs Michael D'Amico to produce the subpoenaed records to Parent on June 2, 2026, which is one week prior to the 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's subpoena is unquestionably prehearing discovery as to the non-expedited issues in this case, as that hearing is not scheduled to begin until July 8, 2026. However, as discussed below, the subpoena duces tecum will be quashed in its entirety for failure to show reasonable necessity for the documents requested.

NO REASONABLE NECESSITY FOR THE RECORDS

Riverside 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.

(*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.)

Student's declaration in support of the subpoena duces tecum makes broad statements about the need for documents for "proper presentation of this case," followed by a long list of issues with no specificity beyond the insertion of Student's name. The entire declaration appears to be a template that could apply to any due process hearing.

In a belated attempt to make a necessity showing, Student explains he is seeking records showing "what Riverside knew, when it knew it, what actions it took or did not take, and whether it assessed or convened an IEP team meeting before changing Student's placement through discipline" and specific to Student. Again, Student's explanations are a template that would apply to any due process hearing, with a general reference to the expedited due process issue.

Student is going to hearing on one narrow expedited issue, that is, whether Riverside should have completed assessments or convened an IEP team meeting to address Student's conduct for which he was disciplined prior to initiating a disciplinary change of placement. Student makes no showing of why he cannot meet his burden of proof with documents in his educational records. Student does not explain how such broad categories of documents as unspecified "communications, records, memoranda, and administrative discussions" regarding "Child Find," "CDE findings," or "IDR implementation" are relevant or material to presentation of Student's expedited case. Simply putting Student's name at the end of a long generic list of documents, or a broad statement that all the documents are about his case, is insufficient to establish those documents are reasonably necessary for Student to prosecute this expedited proceeding.

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.) The undersigned ALJ ordered on the record at the prehearing conference on May 29, 2026, that Riverside ensure Student received a complete copy of his educational records. If Student contends that any specific document that should have been in his educational records was not produced, Student may raise that concern with the ALJ at the expedited hearing.

Accordingly, Riverside's motion to quash Student's subpoena to Michael D'Amico, Riverside's Coordinator, Special Education, is granted.

Because Riverside's motion to quash is granted in its entirety on the grounds Student failed to show reasonable necessity for the records sought, this Order does not address Riverside's additional grounds and objections to the subpoena duces tecum.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings