BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MATEO FOSTER CITY SCHOOL DISTRICT.

OAH CASE NUMBER 2025111062

ORDER GRANTING MOTION TO QUASH SUBPOENA

FEBRUARY 25, 2026

On November 25, 2026, Student filed a due process hearing request, referred to as a complaint, with the Office of Administrative Hearings, naming San Mateo Foster City School District. The Office of Administrative Hearings is called OAH. On December 4, 2025, OAH granted the parties' joint request to continue the matter and set the hearing to begin on February 24, 2026.

On February 9, 2026, San Mateo Foster City issued a subpoena duces tecum on Iris Chen of ACES Comprehensive Educational Services. Prior to issuing the subpoena, on January 30, 2026, San Mateo Foster City sent a notice to consumer to Student advising Student of the subpoena it intended to serve on Chen. The subpoena to Chen sought records related to Student's private applied behavior analysis service. The subpoena directed Chen to appear at the due process hearing on February 24, 2026, at

10:00 AM and upload or deliver the requested documents five business days before Chen was instructed to appear.

On February 4, 2026, Student filed a motion to quash the subpoena on the grounds that San Mateo Foster City failed to establish reasonable necessity for the documents, the request was overbroad, and it invaded Student's right to privacy. On February 9, 2026, San Mateo Foster City opposed the motion arguing it has a reasonable necessity to the documents because Student contends he requires behavior services from a nonpublic agency at school and San Mateo Foster City alleges Student bases the need for the services on his behavior at home.

On February 5, 2026, Student filed a motion to amend the due process complaint. OAH granted Student's motion on February 12, 2026, and set the hearing to begin on April 2, 2026.

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).) 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.

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. (*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.)

San Mateo Foster City's subpoena duces tecum to Chen sought the following categories of documents:

- enrollment and disenrollment paperwork,
- goals and progress reports for services delivered to Student,

- data collection related to the services being provided to Student,
- documentation of behavioral strategies and supports utilized with Student,
- communications and correspondences between Chen or other staff from ACES, Comprehensive Educational Services Inc, and Parents regarding Student's academics, behavior, self-regulation, communication, and/or social skills development,
- communications and correspondences between Chen or other staff from ACES, Comprehensive Educational Services Inc, and Parents regarding Student's attendance, and receipt of services from ACES,
- notes, summaries, logs, reports, data, or other documents pertaining to known clinical or privately obtained interventions or recommendations for intervention (not otherwise protected under any applicable legal privileges) that are related to Student's educational needs or programming, including notes during observations of Student in any educational setting,
- attendance records; and
- any service logs documenting Student's receipt of applied behavior analysis therapy.

San Mateo Foster City's declaration in support of the subpoena states:

> Student filed a complaint alleging San Mateo Foster City denied Student a free appropriate public education for not offering Student appropriate behavioral services and support. San Mateo Foster City alleges Student seeks full-time support from a registered behavior technician with supervision from a board-certified behavior analysist for up to four hours per week in school provided by a nonpublic

> agency. Parents allege that Student demonstrates behavioral concerns such that he requires these intensive behavioral services and supports. In Student's complaint, he cites to Student's dysregulated behavior in the home as evidence that he requires the services from a nonpublic agency at school. ACES, Comprehensive Educational Services, Inc, provides/provided the ABA services that Student receives/received in his home, where Student's dysregulation was purportedly taking place.

Student contends San Mateo Foster City mischaracterizes Student's complaint. Student included one sentence about Student's behavior at home in the complaint, that "Student's parents have stated that Student's challenging behaviors at home have made them question the accuracy of behavior reports at school." Student alleges his behaviors at home are not relevant to the request for additional behavior support at school. Additionally, Student alleges that San Mateo Foster City's only explanation is conclusory in nature without any analysis or explanation to explain how Student's private applied behavior analysis records have any probative value on the appropriateness of the services at school.

San Mateo Foster City's declaration fails to establish that the subpoenaed documents are material and relevant. Student does not mention his private applied behavior analysis services in his complaint, nor does he ask for reimbursement for any private services. Although Student questions the accuracy of the behavior reports from school because he has behaviors at home, Student does not allege his behavior at home are what justifies increased services at school. San Mateo Foster City does not explain how the records from Student's private, in-home, applied behavior analysis provider will

prove the services San Mateo Foster City offered Student at school were appropriate. Nor does San Mateo Foster City explain how the records would show that Student does not require behavior services from a nonpublic agency at school.

Section 1987.1 of the Code of Civil Procedure, provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it. San Mateo Foster City failed to establish the subpoenaed documents were material and relevant, therefore, no good cause for production of the records has been established, the subpoena cannot be modified. Because San Mateo Foster City did not establish a reasonable necessity for the documents, Student's arguments that the request was also overbroad and invaded Student's right to privacy are moot.

ORDER

1. Student's motion to quash San Mateo Foster City's subpoena to Iris Chen of ACES Comprehensive Educational Services is granted. Iris Chen and ACES Comprehensive Educational Services are not required to produce any records sought by the subpoena duces tecum San Mateo Foster City issued.
2. Student must immediately serve a copy of this order on Iris Chen of ACES Comprehensive Educational Services.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings