

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

VISTA OAKS CHARTER SCHOOL.
OAH CASE NUMBER 2026021021

ORDER GRANTING IN PART MOTION TO QUASH
SUBPOENA FOR DANA MORAN AND MODIFYING
SUBPOENA

JULY 9, 2026

On February 24, 2026, Parents on behalf of Student filed with the Office of Administrative Hearings, called OAH, a request for due process hearing naming Vista Oaks Charter School. A request for due process hearing is called a complaint.

OAH granted Student's request to amend the complaint and deemed the amended complaint filed April 2, 2026. On May 11, 2026, OAH continued the hearing for good cause. On June 26, 2026, OAH granted a further continuance for good cause and set the hearing for July 21, 22, and 23, 2026.

On May 21, 2026, Student issued a subpoena for Dana Moran to appear for testimony and to produce records. On May 21, 2026, Student emailed the subpoena to Moran at Moran's Vista Oak's email address, and Vista Oaks' attorney Debra Ferdman.

The subpoena to Moran seeks the following:

1. A complete and itemized list of all documents involving Student, including, but not limited to, individualized education programs, evaluations, cumulative records, behavior notes, health records, progress reports, and any other personally identifiable information that were transmitted to personal email accounts (including but not limited to the specific address morangirls@att.net). Student seeks a complete list of every document disclosed or indication of the overall mass of repeated disclosures to personal email account(s) with information regarding Student as described in title 34 Code of Federal Regulations part 300.32.
2. Dates and times of each transmission to personal email accounts, the names of which staff members received the records and the categories of records involved.
3. A complete copy of any and all internal staff emails that reference or discuss Student, including attachments. In particular, emails involving any and all medical information and those regarding seizures, seizure behavior, seizure symptoms, Student's affect, seizures at school, fading away or fading out, receiving medication and especially not receiving seizure rescue medication at school. Student also sought each email that documented some form of seizure, suspected seizure or attachment of official seizure logs for Student.

4. Identification of any records that were part of Student's educational file share, but are now missing from Student's official file, particularly Individuals with Disabilities Education Act, called IDEA, evaluations, Student's birth certificate, any document drafts, communications, or internal notes that are no longer present in her educational record, such as medication administration authorizations, and agreements to follow the seizure action plan. Student sought a complete list of every document that was in Student's educational file that was now missing.
5. Identification of any records that were part of the student educational file share that have now been returned altered in Student's official file. Please may they pay particular attention to both of Student's Student Identifiers numbers 2535937841 and 3509401421. Student sought a complete list of each document that was in Student's educational file that was now substantively changed, including work samples for audit by the Department of Education.

Student's declaration in support of the subpoena states the records sought from Moran are necessary to determine what Student records, if any, were sent to Moran's personal email. The subpoena sought Moran's appearance for testimony on July 7, 2026, 9:30 AM to 3:30 PM, and directed Moran to produce the records at that time.

On June 25, 2026, Vista Oaks filed a motion to quash the subpoena for Moran. Vista Oaks contends the subpoena should be quashed because the subpoena was not properly served, inaccurate, failed to demonstrate reasonable necessity to produce the sought records, and the request was overly broad, vague and burdensome. Student filed an opposition on June 26, 2026.

On June 26, 2026, OAH held a prehearing conference in this matter. The parties presented further arguments on their positions with respect to the motion to quash. At the PHC, Vista Oaks reiterated the subpoenas were not properly served nor completed. Student further argued that service to Attorney Ferdman for the purpose of effectuating proper service of the subpoena to Moran was appropriate based on Ferdman's June 1, 2026 email to Parent. On June 1, 2026, Ferdman emailed Parent that Ferdman was "authorized by Vista Oaks to accept all subpoenas which are properly filled out and properly served for both Vista Oaks employees as well as service providers for whom Vista Oaks directly contracts with for services."

A party to a due process hearing under the 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 California, the hearing officer in a special education proceeding shall have the right to issue a subpoena, which is an order to appear and give testimony and a subpoena duces tecum, which is an order to produce documents or papers 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.

THE RECORDS SOUGHT ARE REASONABLY NECESSARY BUT THE SUBPOENA IS OVERLY BROAD

Student's declaration in support of the subpoena established the records sought are material and relevant. Student's amended complaint claims Vista Oaks failed to maintain the confidentiality of his personally identifiable information. Therefore, Moran's records, if any, are reasonably necessary to determine what Student records were sent to Moran's personal email.

However, the subpoena also requests Moran to create a list of documents. The subpoena is proper to require Moran to gather and produce responsive documents already in existence, but not to create records, such as a list. As result, the subpoena is overly broad in its request for Moran to create documents, such as a list. The subpoena

is also overly broad that it seeks emails that may not be in Moran's control, such as "any and all internal staff emails".

Furthermore, the subpoena does not specify the period of the documents to be produced. Accordingly, the subpoena is modified as follows as to the documents to be produced:

The documents to be produced are limited to those created from February 24, 2024, two years from the date the initial complaint was filed, through April 2, 2026, the date the amended complaint was deemed filed.

Request number 1 is modified to Student's records of individualized education programs, evaluations, cumulative records, behavior notes, health records, progress reports, and any other personally identifiable information that Moran transmitted to personal email accounts (including but not limited to the specific address morangirls@att.net).

Request number 2 is modified to copies of emails sent by Moran to personal email accounts involving records in request number 1.

Request number 3 is modified to any and all internal staff emails sent and received by Moran, that reference or discuss Student, including attachments. More specifically, emails involving Student regarding any and all medical information and those regarding seizures, seizure behavior, seizure symptoms, Student's affect, seizures at school, fading away or fading out, receiving medication and especially not receiving seizure rescue medication at school. Student also seeks emails that documented some form of seizure, suspected seizure or attachment of official seizure logs for Student.

Request number 4 is modified. To the extent Moran has knowledge of, and is in possession and control of, Student's educational records that are missing, request number 4 is modified to copies of records missing in Student educational file as of May 21, 2026, the date the subpoena was served on Moran.

Request number 5 is modified. To the extent Moran has knowledge of, and is in possession and control of, Student's educational records that have been altered and returned, request number 5 is modified to copies of Student's educational records in request number 1 which have been altered and returned to Student's educational file.

THE SUBPOENA WAS PROPERLY SERVED ON MORAN BUT INCOMPLETE

Attorney Ferdman's June 1, 2026 email to Parent established that Ferdman accepted the subpoena to Moran to effectuate proper service to Moran. The only logical interpretation of Vista Oaks authorizing Ferdman to accept all subpoenas which are properly filled out and properly served for both Vista Oaks employees as well as service providers for whom Vista Oaks directly contracts with for services, was for the purpose of effectuating proper service of the subpoenas to those employees and contracted service providers. Accordingly, the subpoena service to Moran is proper.

However, Student's service was incomplete to the extent Student failed to serve Moran a copy of OAH's instructions in uploading responsive documents to the electronic evidence program, called Case Center. The Instructions for Responding to an OAH Subpoena, are included in OAH's own subpoena form, starting on page 9 of 13, which can be located at: <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>. Student is ordered to serve Moran at her Vista Oaks email address and Attorney Ferdman, with a

copy of the Instructions for Responding to an OAH Subpoena, with a proof of service, to be filed with OAH, and served on Vista Oaks.

Furthermore, the subpoena to Moran required her to appear for testimony on July 7, 2026, 9:30 AM to 3:30 PM. The July 7, 2026, hearing date was vacated, and OAH reset the hearing for July 21, 22, and 23, 2026. Accordingly, the subpoena is modified to require Moran to appear by video on July 21, 2026, 9:30 AM for testimony, and to produce responsive documents as modified in this Order, by that date and time pursuant to the Instructions for Responding to an OAH Subpoena.

ORDER

1. Vista Oaks' motion to quash Student's subpoena for Dana Moran is granted in part and the subpoena is hereby modified. Moran is ordered to appear by video on July 21, 2026, at 9:30 AM for testimony.
2. Moran shall produce documents pursuant to the subpoena as modified and described in this Order, by July 21, 2026, 9:30 AM in accordance with the Instructions for Responding to an OAH Subpoena.
3. Student shall immediately serve a copy of this Order and the Instructions for Responding to an OAH Subpoena on Moran by emailing Moran and Attorney Ferdman.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings