

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2026060151

ORDER DENYING REQUEST FOR CONTINUANCE AND
INTERFERENCE WITH SUBPOENAS AND STUDENT
ATTORNEY ADMONISHMENT

AUGUST 27, 2026

On August 25, 2026, Student filed a motion for interference with service of subpoenas and request for a due process hearing continuance. On August 27, 2026, Grossmont Union School District, called Grossmont, filed opposition to Student's motion. The same day, Student filed a reply.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd.

(f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, attorney, or an essential witness due to death, illness or other excusable circumstances; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).)

RELEVANT PROCEDURAL HISTORY

On May 31, 2026, Student filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing naming Grossmont. After granting the parties' request for continuance, OAH set the prehearing conference for August 21, 2026, and the due process hearing to begin on September 1, 2026.

Before the August 21, 2026, PHC, Student's attorney filed at least five prehearing conference statements. Every PHC statement filed by Student's attorney listed the same two witnesses, April Martinez and Rosalia Sandoval. Student's attorney represented in each prehearing conference statement that these two witnesses are employees of Our Lady of Guadalupe Church. Student's witness list did not include any Grossmont employees.

On August 21, 2026, the undersigned administrative law judge, called ALJ, held a prehearing conference, called PHC, in this matter. Attorney Erik Weber appeared on behalf of the Student. Attorney Jonathan Read appeared on behalf of Grossmont.

At the prehearing conference, the ALJ ordered the parties to meet and confer by August 27, 2026. The ALJ also repeatedly told the parties to review the Order Following Prehearing Conference. The ALJ then drafted a 16-page Order Following Prehearing

Conference, dated August 21, 2026. OAH served Order Following Prehearing Conference the same day.

In the Order Following Prehearing Conference, it stated, in relevant part, the following:

"The parties must serve their list of witnesses on each other in compliance with Education Code section 56505. No party must be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ." (PHC Order, Page 6.)

The parties are ordered to meet and confer no later than 5:00 PM on August 27, 2026, to discuss scheduling witnesses and how much time each witness will take. The parties must discuss any issues related to attorney and witnesses appearing by videoconference for hearing, electronically viewing exhibits during the hearing, and subpoenas, if any." (PHC Order, Page 8.)

"As part of the meet and confer process, Grossmont must inform Student which proposed witnesses are its employees, and must identify the witnesses on Student's list that require a subpoena. Grossmont may agree to accept service for a witness under its control or provide Student with the witness's most recent contact information." (PHC Order, Page 8.)

STUDENT'S MOTION IS DENIED

Student's motion is denied. However, the ALJ is compelled to address attorney's conduct concerning the attempted service of subpoenas and the filing of this motion.

Student's attorney failed to acknowledge in Student's motion the ALJ's PHC order to meet and confer regarding witnesses and subpoenas. Student's attorney should have

disclosed the meet and confer procedural history as it is directly relevant to this motion. Without it, Student's attorney failed to give an accurate rendition of what occurred before filing this motion. Student's attorney failed to do so, and again failed to acknowledge the meet and confer order in Student's reply.

Further, Student's attorney was required to meet and confer regarding witnesses and subpoenas no later than August 27, 2026. The PHC order is not optional. Student's attorney was required to engage opposing attorney in a meaningful effort to resolve the subpoena and witness issues before unilaterally serving subpoenas on Grossmont employees, and then seeking judicial intervention. Student's attorney failed to do so.

Instead, Student's attorney filed a motion asserting that attempts were made to serve subpoenas and that service had been denied, without first complying with the ALJ's order to meet and confer. Opposing attorney represents that no meet and confer occurred before being informed by Grossmont staff that Student's attorney was attempting to communicate with Grossmont employees and his process server attempting to serve subpoenas. Student's attorney did not raise it in his motion and reply and did not deny his failure to meet and confer. Student's attorney concedes the point.

If Student's attorney had complied with the meet and confer order, many of the issues presented could and should have been addressed between the attorneys before judicial resources were invoked. Here, Student's attorney prematurely filed this motion before complying with the ordered meet and confer requirement, and wasted judicial resources and the opposing party's resources.

The ALJ is further concerned by Student's attorney's apparent attempts to subpoena individuals not identified on any of Student's PHC statements for witness

disclosure. The disclosure and witness-list requirements are not merely advisory. Attorney may not use subpoenas to circumvent statutory deadlines, disclosure requirements, or orders. If a witness has not been properly disclosed, attorney must obtain appropriate relief before attempting to compel an undisclosed person's testimony.

Student's attorney argued in his reply that his actions were justified because he can subpoena witnesses but then failed to acknowledge his failure to meet and confer obligation before doing so. Student's attorney then argued that he can subpoena witnesses for rebuttal purposes. Again, Student must meet and confer as ordered regarding subpoenas.

Further, Student's rebuttal argument is misplaced. Rebuttal is a limited form of testimony to contradict or disprove a fact. A party cannot use the rebuttal phase to introduce entirely new arguments or present evidence that should have been a part of the original case. Student's attorney appeared to be arguing that his attempts to subpoena approximately 17 Grossmont witnesses was appropriate for rebuttal purposes. This tactic cannot be utilized as "rebuttal" because Student disclosed only two witnesses and then appears to want to bootstrap the entirety of the case on the backend of the hearing. Moreover, no evidence has been taken; therefore, the scope of rebuttal, if any, is unknown and premature.

Additionally, it appears that Student's attorney failed to communicate with opposing attorney and instead attempted to communicate with Grossmont employees directly. If those individuals were represented by attorney, this may be an ethical violation. At the least, Student's attorney should have, as part of the meet and confer process, contacted Grossmont's attorney to determine if direct contact was prohibited.

If this occurred, Student's attorney is expected to exercise professional judgment and abide by his professional obligations.

The ALJ will not tolerate or permit Student's attorney to create procedural disputes through unilateral action and then seek judicial relief from the consequence of that action. Student's attorney is admonished for this conduct. Student's attorney is expected to comply with the ALJ's orders. Student's attorney is advised that any further frivolous motions may result in sanctions.

Student's motion for continuance is denied. Student's additional requests for interference with service of subpoenas is denied.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings