

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2026031151

ORDER GRANTING MOTION TO QUASH SUBPOENA
DUCES TECUM

AUGUST 12, 2026

On March 25, 2026, Student filed a request for due process naming the Escondido Union High School District. On April 30, 2026, OAH issued an order granting a continuance in this matter and scheduling the case for hearing on August 18, 19, and 20, 2026.

On July 30, 2026, Student served a subpoena duces tecum on Escondido's custodian of records. The subpoena sought a wide variety of records described as written and electronically stored information stored in the District's databases including emails, text messages, and videos or photos of Student. The subpoena sought those records if they were created between April 12, 2024, and August 18, 2026 by any of a

lengthy list of Escondido's staffers and outside providers, described by title or role. The subpoena directed Escondido to produce the materials by July 30, 2026, well in advance of the scheduled beginning of the hearing.

On August 5, 2026, Escondido moved to quash the subpoena duces tecum on the grounds that the subpoena did not allow it sufficient time to locate and produce the documents; that the subpoena did not show reasonable necessity for production; that the subpoena was vague and overbroad; and that its custodian of records did not possess some of the records requested.

On August 7, 2026, Student filed an opposition to the motion to quash that included declarations intended to justify the subpoena's timing, legality and breadth.

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 due process hearings 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, sometimes relies by analogy on some of the equivalent 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.

PROCEDURAL DEFECTS

The subpoena duces tecum in dispute has procedural defects that, by themselves, would justify an order quashing it. The return date on the subpoena is well before the hearing, but, as Student concedes, he is not entitled to prehearing discovery. Student asks that OAH exercise its equitable discretion to reform the subpoena retroactively so that it states August 18, 2026, as its return date. The ALJ declines to do so. In this case, it would not be equitable to allow the issuing party to reform its mistakes in issuing a subpoena duces tecum after having provoked its opponent into making a motion to quash.

Student also concedes that the declaration of counsel served with the subpoena and seeking to justify it is not signed. The ALJ declines to reform the subpoena retroactively to correct this error, for the same reason as stated above.

Student relies heavily on declarations submitted with his opposition to supply factual information missing from the original subpoena. For example, Student's counsel declares under oath that the assertions made in her previous unsigned declaration are confirmed. However, as both the subpoena form and basic fairness require, the justifications for the subpoena must appear on the face of the subpoena as served, not in a subsequent pleading responding to a motion to quash. (See OAH Subpoena Duces Tecum form, p. 5 ("the subpoenas must describe, in detail, . . . why the information sought is 'reasonably necessary' to prove the party's case, in order for the subpoena to be valid."); Code of Civ. Proc., § 1985, subd. (b) ("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.).

LACK OF REASONABLE NECESSITY

More importantly, Student does not show that there is reasonable necessity for the production of the materials sought. Issuance of an SDT in a special education due process proceeding requires "a showing of reasonable necessity," (Cal. Code of Regs., tit. 5, § 3082, subd. (c)(2)), meaning a specific showing that the requested documents are reasonably necessary for the requesting party to present a case at hearing.

Student defends his SDT by equating "reasonable necessity" in the regulation with "relevant" and "material" in civil discovery rules, and then argues that the document demanded are relevant and material to the issues in this case. Student uses these terms interchangeably in his argument.

The Code of Civil Procedure does not, by its terms, apply to special education due process hearings. It is true that OAH sometimes looks to analogous provisions of that Code when special education law does not specifically address a subject. For example, OAH applies roughly the same rules as does the Code of Civil Procedure to regulating service of process and the payment of expenses to witnesses. It borrows some aspects of the Code's rules for motions to quash subpoenas and for determining the applicability of monetary sanctions for misconduct.

However, these analogies are selective and discretionary, and are used to answer questions special education law does not specifically resolve. OAH does not rely on analogies to the Code of Civil Procedure when the question at issue has a specific answer in special education law. One such specific answer concerns the standard for issuance of subpoenas duces tecum.. ([Cal. Code Regs., tit. 5, § 3082, subd. \(c\)\(2\).](#))

If Student were correct in conflating civil discovery standards with special education subpoena requirements, the reasonable necessity standard would be meaningless. Student's equation of relevant and material with reasonable necessity essentially reads reasonable necessity out of the governing regulation.

The history of the reasonable necessity standard show it was intended to be more demanding than the more general rules of civil discovery. The good cause requirement of subdivision (b) of section 1985 of the Code of Civil Procedure has been incorporated into the Administrative Procedure Act. (Gov. Code, § 11450.20, subd. (a).). Rather than accept that standard, the State Board of Education, in adopting the reasonable necessity standard, expressly exempted special education due process proceedings from section 11450.20 of the Government Code, (5 Cal. Code Regs., tit 5, § 3089) and used the phrase reasonable necessity instead. (*Id.*, § 3082, sub. (c)(2).) That choice would be meaningless if reasonable necessity meant the same thing as good cause.

Student's SDT is invalid because it lacks a signature on counsel's declaration and specifies an impermissible pre-hearing date for production. It is also invalid because it does not demonstrate a reasonable necessity for the production of the required documents. The SDT to San Diego's custodian of records will be quashed.

ORDER

Student's subpoena duces tecum to San Diego's custodian of records is quashed in its entirety.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings