

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

UNION SCHOOL DISTRICT.
OAH CASE NUMBER 2026060619

ORDER GRANTING IN PART MOTION TO QUASH
SUBPOENA

AUGUST 17, 2026

On June 8, 2026, Student filed a request for due process, called a complaint, naming Union School District. Student identifies as issues for hearing whether Union denied her a free appropriate public education, called a FAPE, by failing to exercise its child find duty, assess in all areas of suspected disability, make an appropriate eligibility determination, and offer an appropriate education program. This matter is scheduled for hearing beginning on August 25, 2026.

On August 7, 2026, Union issued a subpoena duces tecum on Parent. The subpoena to Parent sought records in Parent's custody, possession, or control for two time periods, from June 1, 2022, to the present and from June 1, 2024, to the present.

From June 1, 2022, to the present, Union sought all Student's work samples; all assessments, standardized assessments, evaluations, tests, and observations; all evaluations or means of assessing Student; and all documents relating to Student's

- education, educational needs, and/or educational services;
- mental health;
- school refusal;
- executive functioning;
- dyslexia;
- attention-deficit/hyperactivity disorder;
- academic regression;
- educational collapse;
- need for one-to-one educational services and/or intervention;
- educational and/or mental health needs provided to Parent by Dr. Dana Won, Samantha Mitchell, Dr. Maggie Smith, and any medical, educational, and/or psychological professional other than Dr. Dana Won, Samantha Mitchell, or Dr. Maggie Smith; and
- dyslexia provided to Parent by Dr. Maggie Smith.

For the period from June 1, 2024, to the present, the subpoena sought all notes in Parent's custody, possession, or control relating to Student's

- education;
- mental health;
- dyslexia;
- attention-deficit/hyperactivity disorder;
- executive functioning; and/or
- special education; and

all communications between Parent and Dr. Dana Won, Samantha Mitchell, Dr. Maggie Smith, and any educational professional, mental health professional, medical professional, dyslexia professional, executive functioning professional, in Parent's custody, possession or control, related to Student's

- education and educational needs;
- mental health;
- dyslexia;
- executive functioning; and
- attention-deficit/hyperactivity disorder.

On August 11, 2026, Student filed a motion to quash the subpoena on the grounds that the subpoena contained errors, specifically referring to Parent as Samantha Mitchell and as a developmental-behavioral physician, including an erroneous case number, and referring to Union's counsel as the hearing officer. Student further contends the subpoena does not establish reasonable necessity, are uncertain, cumulative, oppressive, and grossly disproportionate; and reach privileged and protected communications. Student requests the following:

- Quash in its entirety, the August 7, 2026 Subpoena to Produce Records or Other Things Under Oath With Testimony, directed to Parent.
- Order that the hearing not be continued or delayed because of Union's untimely and defective subpoena.
- Alternatively, limit any production to specifically identified, nonprivileged documents that are directly relevant to an issue set for hearing, not already possessed or controlled by Union, and confined to the 2025–2026 school year.

- Require Union first to identify with specificity which requested documents are absent from its own files and why each is reasonably necessary.
- Exclude from production, disclosure, and review all psychotherapy communications and treatment notes, unrelated medical and mental-health records, and private Parent-Student or family communications, except for specific documents Parent independently elects to offer as hearing exhibits.
- Enter a protective order restricting any permitted disclosure to this proceeding and prohibiting dissemination or use for any other purpose.

On August 12, 2026, Union opposed the motion arguing that the subpoenas request relevant records, provide sufficient notice as to the records sought, and are of reasonable necessity to the presentation of Union's case at hearing. Union admits its subpoena to Parent contained errors, specifically its reference to Parent by another name, its categorization of Parent as a medical professional, and its typographical error in the case number. Union argues that these errors are not bases to quash the subpoena because the subpoena is plainly related to Student and includes the correct references to Parent and the matter throughout the subpoena.

Union recognized several items sought in its subpoena were duplicative and withdrew some of its requests in its motion. Union now seeks the following:

- all documents in Parent's custody, possession, or control relating to Student's education, educational needs, and/or educational services from June 1, 2024, through the present.
- all documents in Parent's custody, possession, or control relating to Student's mental health from June 1, 2022, through the present.

- all documents in Parent's custody, possession, or control relating to Student's school refusal from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's executive functioning from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's dyslexia from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's attention-deficit/hyperactivity disorder from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's academic regression from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's educational collapse from June 1, 2022, through the present.
- all documents in Parent's custody, possession, or control relating to Student's need for one-to-one educational services and/or interventions from June 1, 2022, through the present.
- all documents relating to all assessments, standardized assessments, evaluations, tests, observations, et cetera, in Parent's custody, possession, or control relating to Student from June 1, 2022, through the present.
- all Student's work samples in Parent's custody, possession, or control from June 1, 2022, through April 2025.
- all communications sent by Parent and/or received by Parent in Parent's custody, possession, or control related to Student's education and educational needs from June 1, 2024, to the present. This includes and is limited to communications between: (1) Parent and Student, (2) Parent and Dr. Dana Won, (3) Parent and Samantha Mitchell, (4) Parent and

Dr. Maggie Smith, (5) Parent and any educational professional, mental health professional, medical professional, dyslexia professional, executive functioning professional. This does not include communication with Union or its employees.

- all communications sent by Parent and/or received by Parent in Parent's custody, possession, or control related to Student's mental health from June 1, 2024, to the present. This includes and is limited to communications between: (1) Parent and Student, (2) Parent and Dr. Dana Won, (3) Parent and Samantha Mitchell, (4) Parent and Dr. Maggie Smith, (5) Parent and any educational professional, mental health professional, medical professional, dyslexia professional, executive functioning professional. This does not include communication with Union or its employees.

On August 13, 2026, Student filed a reply to Union's opposition, in support of her motion to quash Union's subpoena to Parent. Student argues the modified requests do not cure the deficiencies of Union's underlying subpoena that she seeks to quash.

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, Office of Administrative Hearings, referred to as 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 Union's subpoena was not individualized or "Parent-specific" and instead copied the language from subpoenas issued to Student's service providers, seeking nearly identical records. Student argues Union did not identify any specific missing document, connect any request to a discrete issue set for hearing, explain why less intrusive evidence is insufficient, or distinguish documents Union already possessed. Student contends Union's subpoena constitutes a fishing expedition, is overly broad,

including requesting four years' worth of records, and invades Student's privacy. Student argues the subpoena is uncertain because it contains errors, specifically in its description of Parent and reference to the case number. Therefore, Student requests the subpoena duces tecum be quashed, as it fails to make the requisite showing of reasonable necessity for the requested documents for these reasons.

Student's complaint alleges Union failed in its child find obligations and did not provide a FAPE, by failing to appropriately identify Student's needs, conduct appropriate assessments, and develop an appropriate educational program. Student seeks remedies based upon alleged academic regression, worsening mental health, increased support needs, and school refusal. Union argues these allegations necessarily place Student's educational functioning, mental health, educational needs, and the causes of the alleged educational harm directly at issue.

Union contends the requested records are reasonably necessary because they may reveal the nature, severity, onset, duration, and progression of Student's educational and mental health needs during the relevant period, and Union requires these records to fairly defend against Student's allegations. Union argues the information sought directly relates to whether Union appropriately identified Student's needs, additional assessments were warranted, its educational decisions were reasonable based upon the information available at the time, and whether the remedies sought by Parent are educationally necessary and appropriate. Union denies its subpoena is a fishing expedition as each category of requested records corresponds to the allegations made by Student and to specific issues that OAH must decide.

Union established reasonable necessity for requesting records in the categories specified in its subpoena duces tecum to Parent. Student has placed her educational

and disability-based needs at issue, as it relates to Union's obligation to provide Student a FAPE based on these needs.

Student offered no legal basis to quash a subpoena in its entirety because Union used the same language in its subpoena to Parent as it did in its subpoenas to third parties. Student did not offer a legal basis to support her request to quash Union's subpoena because Union did not specifically and only request records that were not already in Union's possession. There is no requirement that a subpoena duces tecum shall be so narrowly tailored and be issued only to fill in gaps in the subpoenaing party's records. There is no legal basis to prevent Union from requesting records from Parent that it conceivably may receive from another entity.

Student offered no legal basis to quash a subpoena in its entirety because Union made mistakes in its subpoena, specifically that the subpoena references Parent as Samantha Mitchell once, describes Parent as a physician once, and includes a nonexistent case number once. The totality of the subpoena establishes that the subpoena is to Parent and for this underlying case. The subpoena references Parent by name multiple times throughout the subpoena and references the correct case number. Student argues Parent "should not be required to guess whether [Union] intends to question her as Parent, as Samantha Mitchell, or as a developmental-behavioral physician." Both Student and Union understand Samantha Mitchell is Student's therapist, as established by both parties in both parties' various moving papers as well as prehearing conference statements. That Parent does not understand whether she will be questioned as Student's therapist or a physician is neither credible nor convincing.

In its moving papers, Union refers to the "relevant period" at issue for which it has subpoenaed records from Parent. Student alleges issues beginning around May 2025, based on information Union should have had around April 2025, through

June 8, 2026, the date of the filing of the complaint. However, in the motion, Union does not explain the reasonable necessity of requesting records dating back to June 1, 2022, or even June 1, 2024. Furthermore, Union failed to provide any basis for needing records dated or created after June 8, 2026.

Student contends the subpoena infringes upon her right to privacy, particularly the request for medically related records. California law recognizes a constitutional right to privacy in an individual's medical history. (See, *Pettus v. Cole*, (1996) 49 Cal. App. 4th 402, 440.["the 'zones of privacy' created by Article 1, section 1 of the California Constitution extend to the details of one's medical history"]; *Palay v. Superior Court*, (1993) 18 Cal. App. 4th 919, 932, ["Fundamental to the privacy of medical information is the ability to control its circulation ..."] The constitutional right of privacy is not absolute but is subject to invasion where a compelling public interest is involved. (*Freed v. Home Depot U.S.A, Inc.* (S.D. Cal 2019) 2019 W.L. 183833, p. 5; *Hill v. National Collegiate Athletic Association* (1994) 7 Cal. 4th 1, 37.) State law governs an individual's right to privacy in a civil matter. (Fed. Rule Evid. 501; *Freed v. Home Depot U.S.A.* (S.D. Cal. 2019) 2019 WL 183833.) However, a right of privacy is not absolute. (*Hill, supra* at p. 38.) A court must construe any claim of waiver, due to placing medical matters at issue, narrowly and the competing compelling interest is found only where it is established that the material sought is directly relevant to the litigation. (*Freed, supra*, at p. 5 citing *Tylo v. Superior Court* (1993) 55 Cal. App 4th 1379, 1387.)

Student argues the subpoena is intrusive and is concerned that private communications with Parent and professionals bearing on family and emotional functioning would be exposed. Student argues only directly relevant records should be disclosed. Student's concerns are adequately addressed through the procedures already in place for producing documents pursuant to a subpoena duces tecum, as explained in

the June 12, 2026 Scheduling Order and the August 14, 2026 Order Denying Motion for Protective Order. In summary, subpoenaed parties are to produce responsive records to OAH, not to the parties. Parties are not allowed to access the requested items prior to the beginning of the hearing. The subpoenaed records are to be used for the purposes of the instant hearing only. The Administrative Law Judge reviews the responsive records to determine relevancy. If the records are deemed relevant, the Administrative Law Judge will permit the parties to review the records on Case Center to see if there are records they wish to use as exhibits at hearing. All other records will not be disclosed.

Student's motion to quash Union's subpoena duces tecum to Parent is granted, in part, as to the timeframe of the records sought. Union did not explain the reasonable necessity of requesting records from June 1, 2022, to August 7, 2026, or from June 1, 2024, to August 7, 2026. The timeframe of the records to be produced will be limited to the timeframe at issue for hearing, from April 1, 2025, to June 8, 2026. Student's motion to quash Union's subpoena duces tecum to Parent on all other bases is denied. Parent shall produce records in response to Union's subpoena, modified as follows:

1. all documents in Parent's custody, possession, or control relating to Student's education, educational needs, and/or educational services from April 1, 2025, to June 8, 2026.
2. all documents in Parent's custody, possession, or control relating to Student's mental health from April 1, 2025, to June 8, 2026.
3. all documents in Parent's custody, possession, or control relating to Student's school refusal from April 1, 2025, to June 8, 2026.
4. all documents in Parent's custody, possession, or control relating to Student's executive functioning from April 1, 2025, to June 8, 2026.

5. all documents in Parent's custody, possession, or control relating to Student's dyslexia from April 1, 2025, to June 8, 2026.
6. all documents in Parent's custody, possession, or control relating to Student's attention-deficit/hyperactivity disorder from April 1, 2025, to June 8, 2026.
7. all documents in Parent's custody, possession, or control relating to Student's academic regression from April 1, 2025, to June 8, 2026.
8. all documents in Parent's custody, possession, or control relating to Student's educational collapse from April 1, 2025, to June 8, 2026.
9. all documents in Parent's custody, possession, or control relating to Student's need for one-to-one educational services and/or interventions from April 1, 2025, to June 8, 2026.
10. all documents relating to all assessments, standardized assessments, evaluations, tests, observations, et cetera, in Parent's custody, possession, or control relating to Student from April 1, 2025, to June 8, 2026.
11. all Student's work samples in Parent's custody, possession, or control from April 1, 2025, to June 8, 2026.
12. all communications sent by Parent and/or received by Parent in Parent's custody, possession, or control related to Student's education and educational needs from April 1, 2025, to June 8, 2026. This includes and is limited to communications between: (1) Parent and Student, (2) Parent and Dr. Dana Won, (3) Parent and Samantha Mitchell, (4) Parent and Dr. Maggie Smith, (5) Parent and any educational professional, mental health professional, medical professional, dyslexia professional, executive functioning professional. This does not include communication with Union or its employees.

13. all communications sent by Parent and/or received by Parent in Parent's custody, possession, or control related to Student's mental health from April 1, 2025, to June 8, 2026. This includes and is limited to communications between: (1) Parent and Student, (2) Parent and Dr. Dana Won, (3) Parent and Samantha Mitchell, (4) Parent and Dr. Maggie Smith, (5) Parent and any educational professional, mental health professional, medical professional, dyslexia professional, executive functioning professional. This does not include communication with Union or its employees.

Union is ordered file the subpoena duces tecum with OAH to ensure that the Case Center links are properly sent to the subpoenaed parties.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Jeanie Min".

Jeanie Min

Administrative Law Judge

Office of Administrative Hearings