

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

HESPERIA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2026040359

OAH CASE NUMBER 2026031219

ORDER GRANTING IN PART MOTION TO QUASH  
SUBPOENA DUCES TECUM FOR DAVID YOUNG

SEPTEMBER 10, 2026

On March 25, 2026, Hesperia Unified School District filed with the Office of Administrative Hearings, called OAH, a request for due process hearing, called a complaint, in OAH case number 2026031219, called Hesperia's Case, naming Student.

On April 6, 2026, Student filed a complaint in OAH case number 2026040359, called Student's Case, naming Hesperia. On April 9, 2026, OAH consolidated Hesperia's Case with Student's Case. On May 15, 2026, OAH granted Student's motion to amend the complaint. On June 9, 2026, OAH granted the parties' request to continue and set the due process hearing to begin on September 9, 2026.

On August 19, 2026, Hesperia issued a subpoena duces tecum for Dr. David Young. A notice to consumer was sent to Student advising Student of the subpoena. The subpoena duces tecum to Young sought assessment reports, assessment protocols, special education records, progress reports and informal assessments, interview notes, observation notes and data, correspondence with Parents and Student's attorney, registration and intake forms, billing records, and service logs.

The subpoena duces tecum ordered Young to produce the requested documents on September 9, 2026. Hesperia included an affidavit by Hesperia's attorney with the subpoena duces tecum that described the records sought and why the records sought are relevant and material. Hesperia's attorney also asserted there is a reasonable necessity for the documents and things described in the subpoena duces tecum.

On August 19, 2026, and again on August 20, 2026, Student filed a motion to modify the subpoena duces tecum on the grounds that documents requested are privileged medical information. On August 24, 2026, Hesperia filed a document titled Hesperia's motion to quash subpoena duces tecum which was actually an opposition to Student's motion to quash which argues Hesperia reasonably needs the documents to present a defense to Student's claims.

The crux of both Hesperia's case and Student's case is the appropriateness of Hesperia's assessments and request to exit Student from special education. Young is a neurologist who Student alleged wrote a note that Student needed occupational therapy.

A party to a due process hearing under the Individuals with Disabilities 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, the hearing officer 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.

## MEDICAL PRIVACY

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.)

The subpoena issued failed to comply with the requirement that it be accompanied by a declaration establishing good cause for production of the records. The applicable standard requires a statement of "reasonable necessity" designating the "exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case." Here, the subpoena as written was overbroad. Rather than tailoring the document request to those documents that supported the July 3, 2025, note that Student needed occupational therapy, Hesperia subpoenaed all documents from June 1, 2025, through September 9, 2026, the first day of hearing, from Young related to assessment reports, assessment protocols, special education records, progress reports and informal assessments, interview notes, observation notes and data, and registration and intake forms. The affidavits in support of the subpoenas acknowledge that the singular note from Young is dated July 3, 2025,

and likely came from a visit around that time. No basis for seeking records after July 3, 2025, was established by the affidavit.

Student has a right to privacy in her medical records. While Hesperia argues that it is not requesting all Student's medical records but seeks only the information that Young used in his evaluation of Student, this arguments falls short of a complete analysis of the protection of Student's right to privacy in their medical records. Hesperia is seeking more than a year's worth of records after Young authored the occupational therapy note. Student maintains their right to privacy as to medical matters not at issue in this case. (*Freed, supra*, at p. 5. ["The party seeking the constitutionally protected information bears the burden of establishing that the information is directly relevant to the claims at issue."].)

Furthermore, the information Hesperia seeks is better obtained through direct questioning of Young as a witness.

This is not to say that Student has an absolute right to block disclosure of any information related to their medical history. 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.) Hesperia is entitled to any documents Young relied on to author the June 3, 2025, occupational therapy note.

## ORDER

1. Student's motions to quash Hesperia's subpoena duces tecum for Dr. David Young is granted in part and the subpoena is hereby modified.

Dr. Young shall produce documents as described in the subpoena duces tecum if they relate to the July 3, 2025, occupational therapy note.

2. The production date remains the same, September 9, 2026, or as soon as Dr. Young receives this Order, he shall comply with the subpoena duces tecum and upload the subpoenaed records following the instructions on the subpoena duces tecum.
3. Counsel for Hesperia shall immediately serve a copy of this Order on Dr. Young.

*Linda Dowd*

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings