

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

SAN MARCOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026070477

ORDER GRANTING MOTION TO QUASH SUBPOENA,

IN PART

September 8, 2026

On July 10, 2026, Parents on behalf of Student filed a request for due process hearing with hearing with the Office of Administrative Hearings, called OAH, naming San Marcos Unified School District as Respondent. Parents are not represented by counsel. On July 13, 2026, OAH issued a scheduling order, setting the due process hearing for August 25, 2026.

On August 10, 2026, OAH granted San Marcos Unified's motion to continue the hearing to September 9 and 10, 2026. On August 27, 2026, OAH granted Student's

unopposed motion to continue the hearing, to November 3, 4, and 5, 2026, because the unrepresented Parents wanted to retain an attorney.

On or about August 13, 2026, Student issued a subpoena duces tecum, called an SDT, for San Marcos Unified. An attachment to the subpoena listed documents to be produced. Student did not file a proof of service upon San Marcos Unified. The SDT's date for production was August 14, 2026. On August 25, 2026, San Marcos Unified filed a motion to quash the SDT. Parents served San Marcos Unified's counsel with the SDT on August 20, 2026 (Supporting Declaration of Attorney Summer Dalessandro). On August 26, 2026, Student filed opposition to the motion to quash the SDT.

SUBPOENAED DOCUMENTS

An attachment to Student's SDT described the records or things to be produced. For purposes of this Order, the Attachment is viewed as Student's description of the records sought by subpoena.

The SDT's attachment lists seven groups of documents for productions:

1. Extended School Year (ESY) Regression & Recoupment Records: All student work samples, classwork, homework, quizzes, raw data logs, baseline checklists, and performance tracking sheets collected immediately pre-break and post-break across all grades (including Preschool and Transitional Kindergarten) used to track her motor planning and fine motor progress between December 2025 and June 2026. This must explicitly include all service logs and data sheets from the two weeks prior to and the two weeks following the November 2025 Thanksgiving break, the December 2025/January 2026 Winter break, and the Spring 2026 break.

2. Medi-Cal Billing & Service Reimbursement Auditing Records: All local educational agency (LEA) billing logs, Medicaid/Medi-Cal reimbursement claim submissions, and electronic billing histories generated under [Student's] families name or student identification number from August 2024 to present. Parents explicitly require public medical reimbursement histories to audit and cross-verify the exact service dates and therapy minutes submitted for reimbursement against the District's actual, physical student service delivery sheets.
3. Complete Speech, Occupational Therapy, and Specialized Academic Instruction (SAI) Service Logs: Full service logs, provider notes, session durations, individual vs. group markers, attendance status, and a brief summary of activities or data tied to IEP goals for Speech-Language Therapy, Occupational Therapy, and Specialized Academic Instruction (SAI) spanning August 2025 through June 2026. The district did not provide service logs, provider notes, or summaries of activities or data. The district provided [Student's] attendance records (and not whether other students attended the session) from August 2025 through October 2025; the district did not provide attendance records for November 2025 through the end of the school year in June 2026.
4. Lesson Plans and System Metadata: All daily or group therapeutic lesson plans, activity maps, and automated data entry timestamps/system metadata showing the actual creation and modification dates of the therapy logs.
5. Informal Assessments & Outside Provider Rating Scales: All questionnaires, scoring checklists, rating scales, and records completed by school staff for external clinical entities, specifically including the ABAS-3 Teacher Report,

ADHD Ratings Scale, and BRIEF form completed by Lindsey Sparacino for the "Brain Works" evaluation.

6. June 4, 2026 IEP & Team Notes: The complete, unredacted draft IEP document generated from the June 4, 2026, meeting (showing the proposed doubled weekly SAI minutes), alongside all internal team, administrative, and handwritten notes taken by district staff during or regarding that meeting.
7. Internal Staff Communications: All emails, internal chat logs (including Microsoft Teams or Google Chat), text messages, and written memos regarding [Student's] behavior, IEP, assessments, methodologies, or services involving Jennifer Havlat, Lindsey Sparacino, Emilie Swearingen, Decemna Tang, Jessica All communications among district employees, district staff and/or district contractors regarding Student between August 1, 2023, and the present, including but not limited to communications regarding IEPs, placement, assessments, IEE, and Stanbridge.

NO RIGHT TO PREHEARING DISCOVERY

In general, there is no right to prehearing discovery in due process proceedings under the Individuals with Disabilities Education Act. (20 U.S.C. § 1400 et seq.) Rather, the IDEA provides parties with the right to present evidence and compel the attendance of witnesses at "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).) California provides a similar right to present evidence and compel the attendance of witnesses in due process proceedings (Ed. Code, § 56505, subd. (e)), but does not confer the right to prehearing discovery.

Education Code, section 56505, subdivision (a), provides that “[t]he state hearing shall be conducted in accordance with regulations adopted by the board,” and under that authority the Department of Education promulgated section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of subpoenas and subpoenas duces tecum. These regulations specifically disallow the provisions of the Administrative Procedures Act that provide broader authority for the use of subpoenas in other administrative hearings. (5 Cal. Code Regs., tit. 5, § 3089, [inapplicability of Govt. Code, §§ 11450.05-11450.30 to due process hearing procedures].)

While SDTs are authorized in special education hearings, their use must be consistent with the legislative and regulatory framework of these proceedings. Pre-hearing discovery in special education cases at the administrative hearing stage is limited. Parents or adult students are entitled to request copies of the educational records, relating to the student in question, that are maintained by the school district. (Ed. Code, § 56504; *Burnett v. San Mateo Foster City School District*, (9th Cir. 2018) 739 Fed. Appx. 870, 873.) The parties are also entitled to disclosures of any evidence an opposing party plans to introduce at hearing five business days prior to the date of the first day of hearing. (Ed. Code, § 56505(e)(7).)

Here, the SDT improperly stated the documents were to be produced before the first day of hearing. Hearing was September 9, 2026. The SDT listed August 14, 2026, as the date of production. In the SDT’s attached affidavit, Parents demanded production “within 48 hours of receiving” the SDT. Student has no statutory right to prehearing discovery nor to order an expedited response to the SDT. Student’s subpoena should have been returnable on the first day of hearing.

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. Section 1987.1, which provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it.

The Student's SDT is modified to change the date of production to the presently scheduled first day of hearing, November 3, 2026, or to any continued hearing date. As discussed below, the subpoena will be further modified as to the scope of the documents that San Marcos Unified must produce. The documents shall be produced to the Administrative Law Judge hearing this matter, through uploading such documents to Case Center. San Marcos Unified will upload any responsive documents to OAH's electronic exhibit program, Case Center, to the section entitled "San Marcos USD Subpoena Response." Student is not entitled to see San Marcos Unified's SDT response until the first day of hearing, if such documents are released by the ALJ hearing the matter.

REASONABLE NECESSITY FOR THE RECORDS

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.) However, in special education, the good cause requirement is met by *a factual showing of reasonable necessity for the documents' production*. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) This more stringent required good cause showing of "reasonable necessity" is consistent with the IDEA.

San Marcos asserted that the SDT should be quashed because it failed to make the requisite showing of reasonable necessity for production of the requested documents. The party who issued the subpoena meets the good cause requirement by making a factual showing of why the requested documents are reasonably necessary. (*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.)

Here, the SDT's attached affidavit/declaration generally fails to set forth facts showing the reasonable necessity for the documents' production. (Cal. Code Regs., tit. 5, § 3082, subd. (c)(2).) A mere assertion that the requested documents are relevant or may have information related to an issue is not a showing of reasonable necessity. The Parents' generalized statement in the affidavit that the requested documents are "reasonably necessary" for the requesting party to make its case is insufficient. A party's belief or opinion is not a factual showing of reasonable necessity.

Also, in Student's opposition, Parents asserted that "reasonable necessity" was established by San Marcos Unified's persistent withholding of requested records. This does not demonstrate reasonable necessity. The IDEA clearly limits discovery and does not contemplate SDTs as a primary means of obtaining documents. Parents do not have a right to subpoena documents, merely because they believe a school district did not produce all the records they have requested. The special education good cause requirement is met by a factual showing of "reasonable necessity" for production.

The declaration in support of the SDT and Student's opposition to the motion to quash fail to make a factual good cause showing of the reasonable necessity for the documents' production, except for the documents described in Paragraph 3.

SCOPE OF THE SUBPOENA

San Marcos Unified contended that Student made overbroad and vague descriptions of documents, often using boilerplate language and phrases, which did not sufficiently describe the documents Student was seeking. Student replied that the ALJ is empowered to limit the documents to be produced and not merely quash the request.

Itemized documents in paragraphs 1, 2, 4, 5, and 7, begin with the word "All." The descriptions that follow are vague and overinclusive. Paragraph 1 seeks "*a*//student work samples, classwork, homework, quizzes, raw data logs, baseline checklist, and performance tracking sheets . . ." This is a very broad and general request. Student fails to state why these are "reasonably necessary" to prove-up Student's case. The request is searching for relevant documents, by including a long list of documents, though many would typically be in Student's possession (like quizzes, homework, etc.) Paragraph 1, lists service logs, which are also requested and discussed in Paragraph 3, below.

Paragraph 1 is quashed in its entirety because it is overbroad and vague, in addition to being unsupported by a declaration demonstrating reasonable necessity.

Paragraph 2 requests "all" Medi-Cal billing and service reimbursement auditing records, to enable Parents "to audit and cross-verify the exact service dates and therapy minutes submitted for reimbursement" against the service delivery sheets. The documents' description is overbroad and vague. This is especially true since San Marcos Unified's director of special education informed Parents, in an August 14, 2026 letter, that the requested Medi-Cal record do not exist, San Marcos Unified stated that it did not release any of Student's information to Medi-Cal for the purpose of billing Medi-Cal or to access Medi-Cal health insurance benefits. Paragraph 2 is quashed in its entirety because it is overbroad, vague, and unnecessary, in addition to being unsupported by a declaration demonstrating a factual showing of reasonable necessity.

Paragraph 3 seeks the "complete speech, occupational therapy, and specialized academic instruction service logs." The paragraph claimed that San Marcos Unified's prior production of the service logs were incomplete. San Marcos Unified claimed to have provided the service logs. Paragraph 3 states that the produced service logs should have included provider notes, summaries of activities, and data. Here, Paragraph 3 sufficiently identified the requested documents. The description of these documents also demonstrated the reasonable necessity for production, since the amount and nature of related services are related to a legal issue stated in Student's complaint. San Marcos Unified is required to produce the documents, with the additionally described notes, activity summaries, and gathered data. If San Marcos Unified does not have the materials, then it must say so with the production's attached declaration. San Marcos Unified's motion to quash Paragraph 3 is denied.

Paragraph 4 seeks “all daily or group therapeutic lesson plans, activity maps, and automated data entry timestamps/system metadata showing the actual creation and modification of the therapy logs.” The description is broad, unclear, and confusing, unsupported by factual showing of reasonable necessity. Paragraph 4 is quashed in its entirety.

Paragraph 5 seeks “all questionnaires, scoring checklists, rating scales, and records completed by school staff for external clinical entities.” This description is broad, unclear, and confusing, unsupported by factual showing of reasonable necessity. Paragraph 5 is quashed in its entirety.

Paragraph 6 seeks the “complete, unredacted draft IEP document generated from the June 4, 2026, meeting (showing the proposed doubled weekly SAI minutes).” This request is both vague and argumentative. The Parents have the IEP documents that were generated on June 4, 2026. If Student claims there was some inappropriate changes to the IEP, this can be explored at hearing with the attendees. Parents have failed to factually demonstrate the reasonable necessity of this request.

Paragraph 6 also requests “all internal team, administrative, and handwritten notes taken by district staff during or regarding that meeting.” Paragraph 7 demands “All emails, internal chat logs (including Microsoft Teams or Google Chat), text messages, and written memos regarding . . .” These requests are classic examples of trolling for something the subpoenaing party might be able to use, but knows not where, when, how, or exactly who created such documents, if they exist. Such requests would be suspect in most civil litigation, and are certainly inappropriate in special education. Educational records do not include informal notes related to a pupil “compiled by a school officer or employee that remain in the sole possession of the maker and are not accessible or revealed to any other person.” (Ed. Code § 49061, subd.

(b.) These document descriptions are overly broad, unclear, and confusing. They are unsupported by factual showing of reasonable necessity. Paragraph 6 and Paragraph 7, are quashed in their entirety.

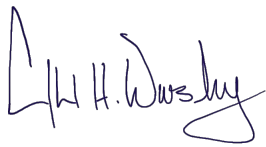
Paragraph 3 sufficiently described the documents, which also demonstrated the reasonable necessity for production. Otherwise, Student failed to demonstrate good cause by factual showing of the reasonable necessity of the documents' production. Also, the documents' descriptions were duplicative, unclear, lacked the requisite specificity, and were overbroad.

ORDER

1. San Marcos Unified School District's motion to quash Student's subpoena is granted, in part, and the subpoena is hereby modified.
2. San Marcos Unified School District shall produce the documents, as described in Paragraph 3 of the SDT's attached declaration.
3. All other documents sought by Student's subpoena duces tecum are hereby quashed.
4. Upon receiving an invitation from OAH's electronic evidence platform, Case Center, San Marcos Unified School District shall electronically upload the documents and records, as described in Paragraph 3 of the SDT's attached declaration, to Case Center's Bundle for its response to Student's subpoena, so that it is available to the Administrative Law Judge on the first day of hearing.
5. San Marcos Unified School District's response to the SDT must be accompanied by a declaration authenticating the produced documents or declaring certain requested documents do not exist.

6. Student is not entitled to see San Marcos Unified School District's response to SDT until the first day of hearing, if the hearing ALJ orders such documents to be released. Any evidentiary objections to the use of such documents during the hearing are retained for hearing and will be ruled on by the ALJ.

When filing a motion, or response to a motion, Parents are directed to include any attachments or exhibits in support, to the motion or response. Parents are not to file attachments or exhibits as separate documents. In other words, attachments or exhibits are to be included with the pleading, as one document.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial "C" and "W".

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings