

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

RIVERSIDE UNIFIED SCHOOL RIVERSIDE,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2026090141

OAH CASE NUMBER 2026080159

ORDER DENYING MOTION TO COMPEL DOCUMENT
PRODUCTION

SEPTEMBER 14, 2026

On July 29, 2026, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Riverside Unified School Riverside as respondent. On August 18, 2026, OAH issued an order determining Student's complaint only partially sufficient. Student did not amend his complaint in response to the Notice of Partial Sufficiency. Therefore, pursuant to the Order, the complaint proceeds only on the issues deemed sufficient.

On September 1, 2026, Riverside filed a complaint naming Student as respondent. During the September 4, 2026 prehearing conference in Student's case, the cases were consolidated and continued.

On August 21, 2026, Student filed a motion to compel documents sought from Riverside. On August 28, 2026, Riverside opposed the motion on the grounds that the documents sought were not educational records and were being impermissibly sought as pre-hearing discovery. On August 28, 2026, Student replied to Riverside's opposition.

In general, there is no right to prehearing discovery in administrative proceedings under the Individuals with Disabilities Education Act, also called the IDEA. (20 U.S.C. § 1400 et seq.) Both the IDEA and California special education law provide 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); Ed. Code, § 56505, subd. (e).) However, neither state nor federal law confer the right to prehearing discovery.

Parents may request the opportunity to review educational records regardless of whether a request for due process is pending. (Ed. Code § 56504; 34 C.F.R. § 300.613.) In California, all parents have the right to receive copies of school records within five business days after parents make a request. California Education Code § 56504 provides that "[t]he parent shall have the right and opportunity to examine all school records of his or her child and to receive copies pursuant to this section ... within five business days after the request is made by the parent, either orally or in writing."

An "education record" under IDEA is defined by the regulations implementing the Family Educational Rights and Privacy Act ("FERPA"). (34 C.F.R. § 300.611(b).) Under FERPA, an education record includes records, files, and documents that "(i) contain

information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.” (20 U.S.C. § 1232g(a)(4)(A).) The Supreme Court has interpreted the word “maintained” in FERPA as “to keep in existence or continuance; preserve; retain” and reasoned that “[t]he word ‘maintain’ suggests FERPA records will be kept in a filing cabinet in a records room at the school or on a permanent secure database.” (*Burnett v. San Mateo-Foster City Sch. Dist.* (9th Cir. 2018) 739 Fed. Appx. 870, 873, citing, *Owasso Indep. Sch. Dist. No I-011 v. Falvo*, (2002) 534 U.S. 426, 432-33, 122 S.Ct. 934, 151 L.Ed.2d 896.)

Student is entitled to receive copies of any documents, and a list of witnesses Riverside intends to present at the due process hearing, at least five days prior to the hearing. (Ed. Code § 56505, subd. (e)(7).) Student has failed to offer any legal authority mandating that Riverside make any disclosures of witnesses or documents, outside the normal educational record request process, prior to that date. Nor has Student offered legal authority mandating document disclosures to facilitate Student’s desire to subpoena witnesses.

Student’s moving papers are not clear as to the documents sought. Student’s motion does not list the documents he is asking Riverside to produce. Student’s motion identified an “August 7” request for educational records email. The attached, unauthenticated email referred to a prior records request. The email itself seeks records related to employees and contractors as well as requesting the curriculum vitae or resumes of 24 alleged Riverside employees, several of whom are only partially identified. Student offers no complete description of the documents he seeks, or legal authority establishing the records listed in the August 7, 2026 email as “educational records.”

Student then states that, on August 13, 2026, Parents submitted a “formal written pupil records request to Mr. Steve Quintero, Pupil Services Program Coordinator,

seeking records fundamentally necessary to cross-examine District personnel and prepare their case-in-chief”, including:

- Curriculum Vitae (CVs) of all staff members who assessed Indiana.
- Copies of the RUSD Provider Packet.
- Copies of the RUSD Contract Agreements with the Non-Public Agency (NPA) Board Certified Behavior Analyst (BCBA) and behavior aide agencies (Autism Behavior Consultants and Zen Educate) which provide direct services to Indiana.
- The CV s, resumes, and qualifications of specific service providers, Robert Diaz and Marria Carreno.
- Complete protocols utilized by the Independent Educational Evaluation (IEE) assessor.

Here, Student has failed to offer legal authority supporting an order compelling production of the requested documents. The legal citations offered in Student’s motion are referenced only generally and fail to tie the citations to the specific documents Student seeks. Student’s reply brief simply lists “key federal statutes and regulations” and “notable case law and legal precedents” failing to offer any legal analysis regarding how the cases and statutes mandate an order granting Student’s document requests. Unauthenticated emails are attached to the motion apparently in an attempt to identify the documents sought. Student argues, without evidence that Riverside plans to

"withhold" the documents until the hearing is over. More importantly, Student fails to establish a right to receive the documents as part of an educational records request.

Student's motion to compel the production of documents is denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings