BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2026090247

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE GRANTING SAN DIEGUITO'S OCTOBER 9 AND OCTOBER 20, 2026, MOTIONS TO QUASH

OCTOBER 21, 2026

On October 19, 2026, Administrative Law Judge Tiffany Gilmartin, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Parents appeared on behalf of Student. Attorney Dee Anna Hassanpour appeared on behalf of San Dieguito Union High School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

The hearing will take place on November 3, 4, and 5, 2026, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. Additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

ISSUES AND PROPOSED RESOLUTIONS

A FAPE means a free appropriate public education. An IEP means an individualized education program. The ALJ has clarified the statement of issues as allowed by the holdings in *J.W. v. Fresno Unified Sch. Dist*. (9th Cir. 2010) 626 F.3d 431, 442-443, and *Ford v. Long Beach Unified Sch. Dist*. (9th Cir. 2017) 291 F.3d 1086, 1090. (But see *M.C. v. Antelope Valley Union High Sch. Dist*. (9th Cir. 2017) 858 F.3d 1189, 1196, fn. 2 [dictum].) The issues in the complaint have been reorganized and rephrased for clarity. No change in substance has been made. A party believing that an issue has been misstated must file a notice in writing, before the first day of hearing, stating its concern and referring to supporting portions of the complaint. The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC are:

ISSUES

1. Did San Dieguito deny Student a free appropriate public education from September 8, 2024, through the 2024-2025 school year, by:
    a. Failing its Child Find obligation;
    b. Failing to assess Student in all areas of suspected disability, specifically autism and other health impairment;
    c. Failing to find Student eligible for special education and related services in the category of autism or other health impairment;
    d. Failing to timely assess Student following Parent's consent;
    e. Failing to provide legally complaint assessments, specifically in psychoeducation;
    f. Failing to timely convene an IEP team meeting;

g. Failing to consider recommendations of Parent's privately provided evaluations;

h. Denying Parents meaningful parental participation in the IPE development process?

2. Did San Dieguito deny Student a FAPE during the 2025-2026 school year by:

a. Failing its Child Find obligation;

b. Failing to assess Student in all areas of suspected disability, specifically autism and other health impairment;

c. Failing to find Student eligible for special education and related services in the category of autism or other health impairment;

d. Failing to timely assess Student following Parent's consent;

e. Failing to provide legally complaint assessments;

f. Failing to timely convene an IEP team meeting;

g. Denying Parents meaningful parental participation?

3. Did San Dieguito deny Student a FAPE during the 2026-2027 school year until September 8, 2026, by:

a. Failing its Child Find obligation;

b. Failing to assess Student in all areas of suspected disability, specifically autism and other health impairment;

c. Failing to find Student eligible for special education and related services in the category of autism or other health impairment;

d. Failing to timely assess Student following Parent's consent;

e. Failing to provide legally complaint assessments;

f. Failing to timely convene an IEP team meeting;

g. Denying Parents meaningful parental participation?

PROPOSED RESOLUTIONS

The resolutions requested by Student include eligibility for special education, compensatory education, staff training, and any other remedy deemed appropriate of the administrative law judge hearing this matter.

San Dieguito filed its response to Student's complaint on September 18, 2026. (*M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

STATUTE OF LIMITATIONS

Student's prehearing conference statement included issues dating back to the 2023-2024 school year. San Dieguito objected to the claims as they were not pled in the complaint.

Student's prehearing conference statement further raised for the first time allegations that San Dieguito failed to grant independent educational evaluations, IEE, or file to defend its assessments. San Dieguito also objected to these issues as they were not plead in Student's complaint.

Both parties were heard on the record. The complaint was reviewed. San Dieguito's objection was sustained. Student failed to pled any facts sufficient to put San Dieguito on notice of her intent to seek to extend the statute of limitations or challenge San Dieguito's failure to fund IEEs. Thus, those issues were struck.

MOTION TO QUASH

On October 9, 2026, San Dieguito filed a motion to quash Student's October 7, 2026, subpoena duces tecum to produce records. Student issued the subpoena to San Dieguito on October 7, 2026. Student's subpoena duces tecum did not comply with OAH's instructions to provide a copy of the SDT to OAH to allow for a case center invite to be generated for document upload. Student remediated this failure on October 19, 2026, at 2:37 P.M. The subpoena duces tecum provides for a production date of October 15, 2026, which was prior to the original first day of hearing set for October 20, 2026. On October 12, 2026, the due process hearing was continued until November 3, 4, and 5, 2026.

Student subpoena directed San Dieguito to produce the following records that include:

- All communications including emails, text, and messages from any San Dieguito platform for communication with parents, students, and between SDUSHSD employees or anyone assigned to utilize communications for student educational purposes between August 1, 2023, through October 7, 2026 about Student's social, emotional and academic needs; anxiety, school refusal, autism, request for assistance, request for assessments, request for services, and request for independent educational evaluations, Student's absences, self-harm, suicidal-ideations, Student's section 504 plan;

- Student identified 46 San Dieguito employees who she argued the scope of the subpoena duces tecum may apply;

- Student's attendance records from August 1, 2023, through present;

- All counseling or consultation logs for Student from August 1, 2023, through present.

In the subpoena duces tecum, Student generally asserts the records are required to prove the allegations and issues in Student's complaint. Student further asserts San Dieguito denied a valid public records request, provided incomplete records through a legal education records request, and demanded payment for records. Student further asserts the records are necessary to proving its case that San Dieguito misrepresented its promises of special education services allowing Student to extend the statute of limitations.

San Dieguito moves to quash the subpoena duces tecum on the grounds Student did not provide a reasonable time to locate and produce records or copies, Student seeks impermissible prehearing discovery, Student failed to establish a reasonable necessity for the documents, and Student's subpoena duces tecum is overly broad and unduly burdensome. 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).)

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 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).)

Special education law does not specifically address motions to quash subpoenas or subpoenas duces tecum. In ruling on such motions OAH sometimes 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.

The "reasonable necessity" standard required by Title 5 of the California Code of Regulations, Section 3082, subd. (c)(2), is a distinct, more stringent standard then the "good cause" standard articulated in the 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.)

RESONABLE NECESSITY FOR THE RECORDS

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. OAH does not, however, 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).)

The history of the reasonable necessity standard shows 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.

Both parties were heard on the record. Student acknowledged she filed a new subpoena duces tecum on October 19, 2026. Counsel for San Dieguito acknowledged intent to file a motion to quash. This was filed on October 20, 2026. Counsel further provided a declaration explaining why her motion was not filed prior to the prehearing conference. San Dieguito's October 20, 2026, motion to quash will be addressed below.

Upon review, counsel for San Dieguito withdrew its motion to quash as to Student's attendance records and counseling or consultation logs from August 1, 2023, through present.

The remaining sections of Student's October 7, 2026, subpoena duces tecum makes no showing of reasonable necessity. Student submitted a conclusory paragraph arguing the records are required. Student's subpoena fails to provide a declaration in support of the subpoena thus it is impossible to determine records are reasonably necessary.

San Dieguito's motion to quash Student's subpoena duces tecum issued on October 7, 2026, is granted.

Student's October 19, 2026, subpoena duces tecum filed at 2:37 PM is a 16-page document consisting of the subpoena duces tecum form generated by OAH. Student references an "attached sheet;" however, no document is attached describing what documents Student seeks production on or a statement of reasonable necessity. San Dieguito's October 20, 2026, motion to quash is granted as no reasonable necessity was established.

EXHIBITS

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically. Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence in compliance with Education Code section 56505, subdivision (e)(7). If further assistance is needed, please contact OAH at OAHSEOps@dgs.ca.gov.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged as required by Education Code section 56505, subdivision (e)(7) shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

IDENTIFYING EXHIBITS AND PAGE NUMBERS

Each exhibit must be identified by a letter and number. Student must use the letter S before the number to identify Student's exhibits. San Dieguito must use the letter D before the number to identify San Dieguito's exhibits. A cover sheet with this identifying letter and number should be the first page of each exhibit. The electronic evidence program will automatically number the exhibits and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

Parties should include resumes or curriculum vitae for each witness expected to testify as an expert.

San Dieguito's exhibits must include a copy of the school calendar for each school year in question.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically.

Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

Parties are responsible for ensuring that all participants are familiar with and follow the Instructions for Joining the Online Due Process Hearing provided with this Order. Participants who have not previously used the Zoom application, may find informative instructions by visiting, Getting Started with Zoom at https://support.zoom.us/hc/en-us/categories/200101697.

The parties are responsible for ensuring that witnesses join the virtual hearing room at the designated date and time to testify. Witnesses are required to join the due process hearing by computer and appear by videoconference unless they do not have the necessary computer equipment. If a witness does not have the necessary equipment, the ALJ may permit the witnesses to appear by audio only or by telephone. "Audio only" means using a computer without video. A witness's inability to attend the hearing by videoconference will be discussed at the start of the hearing.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need for calling witnesses out of order.

The ALJ has discretion to limit the number of witnesses and the time allowed for testimony. Education Code, section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence may be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear.

The parties are ordered to meet and confer no later than close of business on October 28, 2026, to discuss scheduling witnesses and how much time each witness will take. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing, electronically viewing exhibits during the hearing, and subpoenas, if any. The parties should attempt to eliminate duplicate exhibits from their hearing exhibits. The parties shall discuss whether they can produce a written stipulation as to pertinent facts, contentions, resolutions and the authenticity and admissibility of documents to shorten the length of time needed for the hearing.

As part of the meet and confer process, San Dieguito shall inform Student which proposed witnesses are District employees. San Dieguito shall also identify the witnesses on Student's list that require a subpoena. San Dieguito may agree to accept service for a witness under San Dieguito's control or provide Student with the witness's most recent contact information.

PARTICIPANT INFORMATION FORM

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

Any contact information provided shall be used for the limited purpose of issuing subpoenas or for contacting a witness to attend the hearing. Any contact information shall not be disclosed to any other person.

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case Student requested the hearing and bears the burden of proof. Student's case-in-chief shall be presented first, followed by San Dieguito, unless otherwise ordered.

WITNESS LISTS

The parties must provide a joint proposed witness list to the ALJ on the first day of hearing. The list should include the first and last name of the witness, which party is calling the witness to testify, and include dates and time estimates of each witness's expected testimony. In the event an agreement cannot be reached, each party shall

prepare a separate written list. Student must have witnesses available in case there is no agreement.

At the beginning of the hearing, the ALJ and the parties will discuss the length of time anticipated for each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time for the testimony of each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine a witness on all issues when the witness is first called to testify. Requiring a witness to appear only once takes priority over the order in which parties present their case-in-chief.

AUDIO ONLY OR TELEPHONIC TESTIMONY

Whether a witness may appear by audio only or telephone instead of videoconference is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Any party seeking to present a witness by audio only or telephone shall request permission to do so before the hearing. Any party seeking to present a witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

A party may request permission to make an audio recording of the hearing. Permission to make an audio recording is subject to the ALJ's discretion and based upon the following conditions:

1. the OAH recording is the only official recording;
2. the parties shall turn their recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record;
3. operation of the party's recording mechanism will not be allowed to delay the hearing;
4. a party's recording may not be given, provided or played to a witness, or potential witness;
5. the recording is subject to the same confidentiality as the due process hearing; and
6. participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

Student's and District's requests to make an audio recording of the hearing are granted.

VIDEO RECORDING

No party, witness or anyone else may videorecord any part of the proceedings or stream live through any means.

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording shall be considered at the time of hearing.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education. Documents offered as evidence to support a request for reimbursement must be separated by vendor.

MOTIONS

No prehearing motions are pending or contemplated. Any motion that was not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

STIPULATIONS

Stipulations to pertinent facts, contentions, resolutions and authenticity and admissibility of documents are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing prior to the start of the hearing.

CONDUCT OF PARTICIPANTS AND HEARING ROOM DECORUM

All participants to the videoconference should observe the same decorum as in an in-person due process hearing. Participants must conduct themselves in a professional and courteous manner at all times. Cellular phones, telephones and computer notifications must be shut off or set to silent during the hearing unless the ALJ grants permission otherwise. Participants should appear from a private location, unless otherwise ordered. Participants should take reasonable efforts to minimize background noise and maintain adequate room lighting. Use of virtual background images are at the discretion of the ALJ. Witnesses are prohibited from reading exhibits, documents, notes, text messages, telephones or computers while testifying, unless permitted to do so by the ALJ. The parties, their representative and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party requested an accommodation nor is a language interpreter needed. OAH will provide the interpreter.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is

known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings.

HEARING CLOSED TO THE PUBLIC

The hearing is closed to the public. Special education hearings are closed to the public unless Student requests the hearing to be open to the public.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an

agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Tiffany Gilmartin

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings