BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MATEO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2025080304

ORDER GRANTING MOTION TO QUASH SUBPOENA

OCTOBER 3, 2025

On August 7, 2025, Student filed a request for due process, called a complaint, with the Office of Administrative Hearings, naming San Mateo County Office of Education. The Office of Administrative Hearings is called OAH. San Mateo County Office of Education is called San Mateo. The hearing is scheduled to commence on October 7, 2025.

On September 24, 2025, Student issued a subpoena duces tecum for San Mateo to produce all written communications, including emails, text messages that are to, from and between San Mateo's employees about Student, any school exam, test, or completed assignment, and any other assessments. San Mateo received service on September 26, 2025 seeking production of said records three days later, on September 29, 2025.

On September 26, 2025, San Mateo filed a motion to quash the subpoena. San Mateo's motion was based on objections that Student's request was unreasonable and oppressively overbroad, lacked a specific date range, and was unduly burdensome to comply. Also, San Mateo objections included an assertion that Student did not give a reasonable amount of time to respond to the subpoena.

On September 30, 2025, Student filed an opposition to the motion to quash. Student contends in his opposition that the subpoena was relevant to the issues at hearing and not overly burdensome in nature. In the alternate, Student represented he was willing to amend the subpoena.

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.)

Student's subpoena was not accompanied by a declaration stating reasonable necessity for any of the documents requested. Student made no factual showing in the subpoena of why the requested documents are material and relevant to the litigated issues. The subpoena fails on this ground, alone.

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.

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).) 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.

While subpoenas duces tecum 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 5 business days prior to the date of the first day of hearing. (Ed. Code, 56505(e)(7).)

Student's subpoenas duces tecum directs San Mateo to produce the subpoenaed records on September 29, 2025, which is seven days prior to the first day of hearing. Student has no statutory right to pre-hearing discovery. Student's subpoenas should have been returnable on the first day of hearing, October 7, 2025. Section 1987.1 of the Code of Civil Procedure, provides that a court may make an order quashing a subpoena entirely, modifying it, or directing compliance with it.

Based on the pleadings in the file, Student was aware of the hearing beginning on October 7, 2025. Yet, on September 26, 2025, Student improperly issued the subpoenas seeking production of documents before the commencement of hearing.

Additionally, the request for all communications is overly burdensome in nature because the request requires San Mateo to search written and electronic communications to, from, and between San Mateo's employees about Student. Because this request lacks a time period, can potentially involve several dozen employees' work and personal communication devices, and asks for both written and electronic communication, it is overly broad and unduly burdensome.

Although Student defined the time frame for the exams and tests as during Student's attendance at San Mateo, the request did not identify the subject, class, or teacher. Without any additional description for the exams and tests, the request is overly broad. The request for any completed assignment assumes the time frame was during Student's attendance but is not clearly stated on its face. Additionally, the request for completed assignments does not include any details to narrow the search such as the subject, class, and type such as homework, classwork, or a class project. Also, the request for any other assessment lacks a date range and a description of which assessments is being sought. For these reasons, the request described in the second paragraph is overly broad and unduly burdensome for San Mateo to produce.

Lastly, Student issued the subpoena's duces tecum on September 26, 2025, only three days before the date the documents were requested to be produced and eight days before the first day of hearing. Accordingly, the requests seek unauthorized discovery and did not provide enough notice before the required production, regardless. A subpoena for the production of documents must be served at least 20 days prior to the date of production. (Code Civ. Pro. § 1987(c); Gov't. Code § 11450.20. See also OAH Subpoena Duces Tecum Form, Revised 3.2024, "Instructions for Party Requesting a Subpoena.")

Accordingly, the motion to quash Student's subpoenas duce tecum, in their entirety, is granted.

ORDER

1. San Mateo County Office of Education's motion to quash Student's subpoenas duces tecum is granted. The subpoenas are quashed in their entirety.

Thanayi Lindsey
Thanayi Lindsey (Oct 3, 2025 09:06:38 PDT)

Thanayi Lindsey
Administrative Law Judge
Office of Administrative Hearings