BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025080498

ORDER DENYING MOTION TO QUASH SUBPOENA DUCES TECUM TO CARONDELET HIGH SCHOOL; ORDER MODIFYING DATE AND TIME FOR PRODUCTION OF RECORDS

DECEMBER 4, 2025

On August 11, 2025, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, naming Mt. Diablo Unified School District. The Office of Administrative Hearings is called OAH.

On September 4, 2025, OAH continued the due process hearing for good cause to December 9, 10, and 11, 2025. On December 1, 2025, OAH again continued the hearing for good cause to December 23 and 24, 2025.

On November 3, 2025, Mt. Diablo Unified issued a subpoena duces tecum on Carondelet High School. A notice to consumer was sent to Student advising Student of the subpoena directed to Carondelet. A copy of the subpoena was sent to Student with the notice to consumer.

The subpoena to Carondelet sought records from August 11, 2023, through November 3, 2025, of:

1. Assessment and evaluation reports, including draft reports, that reference Student and/or Parents by name, initials, or identification number.
2. Student's application for admission and/or enrollment and any and all supportive documents attached to the same.
3. Contracts for enrollment, services, enrollment records, and registration documents that reference Student or Parents by name, initials, or identification number.
4. Special education or other educational support documents that reference Student and/or Parents by name, initials, or identification number, including but not limited to documents related to the "Academic and Learning Support" program or similar academic support programs.
5. Correspondence, including but not limited to, letters and emails, between and among the following:
    i. Any and all employees of Carondelet to other employees of Carondelet regarding Student and/or Parents.
    ii. Any and all employees of Carondelet and Parents regarding Student;

iii. Any and all employees of Carondelet and Student's attorney, and any other staff, attorneys, or other employees associated with Student's attorney regarding Student and/or Parents.

6. Student's attendance records.
7. Any and all report cards, placement tests, and/or progress reports documenting Student's achievement and progress in any and all aspects of Carondelet's educational program.
8. Any and all service logs documenting special education or support services provided to Student at Carondelet.
9. Billing records that reference Student and/or Parents by name, initials, or identification number.

Mt. Diablo Unified's declaration in support of the subpoena states:

> Production of the requested records from Carondelet is reasonably necessary for the District to defend itself in Student's due process complaint, assigned OAH Case No. 2025070468, in which Student alleges the District failed to offer her a free, appropriate public education ("FAPE"). Student currently attends Carondelet, where she was unilaterally placed by Parents in lieu of the offered District program. Parents claim that this program is more appropriate for Student than the program offered by the District, and request that OAH order the District to reimburse them for the cost of Student's attendance at Carondelet. The requested records are necessary for the District to respond to the allegations raised by Student in OAH Case No. 2025070468 and to defend itself in the due process hearing.

> There is no other way for the District to obtain these records or the information they contain.

On November 18, 2025, Student filed a motion to quash the subpoena. Student contends the subpoena should be quashed because it fails to demonstrate reasonable necessity of the records sought. Student also contends the subpoena is overly broad because it seeks records that exceed the scope of the issues to be heard and decided at hearing.

On November 21, 2025, Mt. Diablo Unified filed an opposition to the motion. Mt. Diablo Unified contends the subpoena established the records sought are reasonably necessary to defend against Student's claims, and to challenge the remedies sought by Student. Mt. Diablo Unified also contends the subpoena is not overly broad because records sought are limited to the period Student is claiming Mt. Diablo Unified denied her a FAPE. Mt. Diablo also claims Student does not have standing to move to quash the subpoena.

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 California, the hearing officer in a special education proceeding shall have the right to issue 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.

STUDENT HAS STANDING FOR THE MOTION

As stated in the notice consumer for the subpoena, a party in the matter may file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena. Therefore, Student as a party in this matter and a consumer whose records are sought from Carondelet, has standing for the motion to quash. (Code of Civ. Proc., § 1987.1; Code of Civ. Proc., § 1985.3, subd. (a)(2).)

THE SUBPOENA ESTABLISHED THE RECORDS SOUGHT ARE REASONABLY NECESSICARY

Mt. Diablo Unified's declaration established that the documents subpoenaed are material and relevant. Student's complaint states Parents unilaterally placed Student at Carondelet, a private school, and Student began attending Carondelet at the start of 2023-2024 school year. She remains a student of Carondelet. Student's complaint claims Student benefitted academically and emotionally at Carondelet. As a remedy, Student is seeking reimbursement for the costs of her attendance at Carondelet. Mt. Diablo's declaration established the records of Student's attendance and progress at Carondelet are material and relevant to whether the types of supports, services, and setting offered at Carondelet was necessary for Student to receive a FAPE, and to determine whether Mt. Diablo Unified's offer of FAPE was appropriate.

Furthermore, a parent may be entitled to reimbursement for placing a student in a private placement without the agreement of the local educational agency if the parents prove at a due process hearing that the local educational agency had not made a FAPE available to the student in a timely manner prior to the placement, and that the private placement was appropriate. (20 U.S.C. § 1412(a)(10)(C)(ii); 34 C.F.R. § 300.148(c); see also *School Comm. of Town of Burlington, Mass. v. Department of Educ. of Mass*. (1985) 471 U.S. 359, 369-370 [reimbursement for unilateral placement may be awarded under the IDEA where the district's proposed placement does not provide a FAPE].) Therefore, the subpoenaed records are reasonably necessary for Mt. Diablo Unified to challenge Student's request for tuition reimbursement at Carondelet.

THE SCOPE OF THE SUBPOENA IS NOT OVERLY BROAD

Student's complaint contends Mt. Diablo Unified denied her a FAPE between August 11, 2023, through August 11, 2025. The material and relevant records sought by the subpoena are limited to the period at issue in this matter. Accordingly, the scope of the subpoena is not overly broad.

In sum, the subpoena demonstrated the records sought are reasonably necessary, and the request not overly broad. Accordingly, Student's motion to quash the subpoena duces tecum to Carondelet is denied.

ORDER

1. Student's motion to quash Mt. Diablo Unified's subpoena duces tecum to Carondelet High School is denied. The records shall be produced by Carondelet High School in accordance with the instructions set forth in the subpoena by 9:00 AM on December 23, 2025, the first day of the hearing in this matter. If the hearing date is further continued, the date of production shall be the first day of the continued hearing.
2. Counsel for Mt. Diablo Unified shall immediately serve a copy of this Order on Carondelet High School.

P. *Rommel P. Cruz*

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings