BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VISTA OAKS CHARTER SCHOOL.

OAH CASE NUMBER 2026021021

ORDER GRANTING MOTION TO QUASH SUBPOENA DUCES TECUM AND MODIFYING SUBPOENA FOR TESTIMONY FOR MARIANNE ACKERLAND

JULY 9, 2026

On February 24, 2026, Parents on behalf of Student filed with the Office of Administrative Hearings, called OAH, a request for due process hearing naming Vista Oaks Charter School. A request for due process hearing is called a complaint.

OAH granted Student's request to amend the complaint and deemed the amended complaint filed April 2, 2026. On May 11, 2026, OAH continued the hearing for good cause. On June 26, 2026, OAH granted a further continuance for good cause and set the hearing for July 21, 22, and 23, 2026.

On May 21, 2026, Student issued a subpoena for Marianne Ackerland to appear for testimony and to produce records. The subpoena describes Ackerland as a school nurse. On May 21, 2026, Student emailed the subpoena to Ackerland at Ackerland's email address with K12 Health, a nonpublic agency, and Vista Oaks' attorney Debra Ferdman.

The subpoena to Ackerland seeks the following:

1. All health files, nursing logs, telehealth notes, skilled-nursing assessments, draft or final nursing diagnoses, internal communications, and documentation created or maintained by the School, School RN, or any other nursing personnel, including K12 Staff: Marianne Akerland, RN, PHN President, Director of Nursing; Brenda Allen, RN; Credentialed School Nurse - Screening Team - San Diego; Don Akerland - Accounting, Payroll; Susan Anderson - Operations, Case Manager; Vivian Arriaga, RN, Credentialed School Nurse; Kelly Broughton, RN, Credentialed School Nurse -Screening Team – Sacramento; Alanna Lee, RN, Credentialed School Nurse - Screening Team – Bay Area, and Serenity Nelson - Tech Support.
2. All medication logs, seizure documentation, incident reports, symptom logs, and monitoring data including "Form H", which Student claims is a form repeatedly mentioned in the educational record but not provided upon Parent's requests.
3. All correspondence, notes, observations, or internal communications referencing Student's health, safety, seizure activity, or nursing needs.

4. Any documents - electronic or handwritten - stored in the cumulative file, health file, confidential file, or maintained separately by the nurse or nonpublic agency related service staff.

The subpoena seeks the above records maintained by K12 Health, Akerland, and K12 Health's staff. Student's declaration in support of the subpoena does not explain why the records sought are material to the issues to be heard and decided in this matter.

On June 25, 2026, Vista Oaks filed a motion to quash the subpoena and subpoena deuces tecum for Ackerland. Vista Oaks contends the subpoena should be quashed because the subpoena was not properly served, failed to demonstrate reasonable necessity to produce the sought records, and the request was overly broad, vague and burdensome. Student filed an opposition on June 26, 2026.

On June 26, 2026, OAH held a prehearing conference in this matter. The parties presented further arguments on their positions with respect to the motion to quash. At the PHC, Vista Oaks reiterated the subpoenas were not properly served nor completed. Student further argued that service to Attorney Ferdman for the purpose of effectuating proper service of the subpoena to Ackerland was appropriate based on Ferdman's June 1, 2026 email to Parent. On June 1, 2026, Ferdman emailed Parent that Ferdman was "authorized by Vista Oaks to accept all subpoenas which are properly filled out and properly served for both Vista Oaks employees as well as service providers for whom Vista Oaks directly contracts with for services."

In California, the hearing officer in a special education proceeding shall have the right to issue a subpoena, which is an order to appear and give testimony and 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.

THE SUPOENA FOR RECORDS IS OVERLY BROAD AND FAILS TO DEMONSTRATE REASONABLE NECESSITY FOR THE RECORDS

The subpoena is overly broad because it seeks records unrelated to Student and from individuals who may not have possession and control of the records requested.

For example, request number 1 requests a variety of records that are not limited to Student. The subpoena is also overly broad because it seeks records to be produced by Ackerland that could be maintained and created by other individuals.

Further, the declaration in support of the subpoena for records fails to include a description of how the requested records are necessary for Student to present his case on the issues to be heard and decided in this matter. The subpoena does not explain how the records sought are material to Student's claims. Accordingly, the subpoena duces tecum is quashed for these reasons.

SUBPOENA FOR ACKERLAND TO TESTIFY WAS PROPERLY SERVED AND IS MODIFIED

The pleadings demonstrate Vista Oaks contracted with Ackerland to provide nursing services to Student. Attorney Ferdman's June 1, 2026 email to Parent established that Ferdman accepted the subpoena to Ackerland to effectuate proper service to Ackerland. The only logical interpretation of Vista Oaks authorizing Ferdman to accept all subpoenas which are properly filled out and properly served for both Vista Oaks employees as well as service providers for whom Vista Oaks directly contracts with for services, was for the purpose of effectuating proper service of the subpoenas to those employees and contracted service providers. Accordingly, the subpoena service to Ackerland is proper.

The subpoena for Ackerland required her to appear for testimony on July 7, 2026, at 9:30 AM. The July 7, 2026, hearing date was vacated, and OAH reset the hearing for July 21, 22, and 23, 2026. Accordingly, the subpoena is modified to require Ackerland to appear by video on July 21, 2026, 9:30 AM for testimony.

ORDER

1. Vista Oaks' motion to quash Student's subpoena duces tecum to Marianne Ackerland is granted. The subpoena for records to Marianne Ackerland is hereby quashed.
2. Vista Oaks' motion to quash Student's subpoena for testimony to Marianna Ackerland is denied The subpoena is modified to require Ackerland to appear by video on July 21, 2026, at 9:30 AM.
3. Student shall immediately serve a copy of this Order on Marianne Ackerland by emailing Ackerland and Attorney Ferdman.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings