BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PACIFICA SCHOOL DISTRICT.

OAH CASE NUMBER 2025080669

ORDER GRANTING STUDENT'S MOTION TO QUASH THREE SUBPOENAS DUCES TECUM ISSUED BY DISTRICT

NOVEMBER 3, 2025

On August 18, 2025, Student filed a request for due process, called the complaint, naming Pacifica School District, called Pacifica. The complaint alleges Student was denied a free appropriate public education, called a FAPE, in the individualized education program, called an IEP, dated February 14, 2025, because it failed to offer Student an appropriate placement, specialized academic instruction, one to one aide services, and extended school year.

On August 18, 2025, a scheduling order was issued by OAH. On August 26, 2024, an order granting a continuance in this matter was granted continuing the case for hearing to November 4, 2025, through November 6, 2025. On October 17, 2025, OAH

issued an order granting Pacifica's request for a second continuance of the hearing date to November 13, 2025.

On October 17, 2025, Pacifica issued a subpoena duces tecum, called an SDT, to Anna Cecioso, Touchstone Learning, referred to as Touchstone. This SDT was served on Touchstone via overnight delivery on October 29, 2025. This SDT is referred to herein as the Touchstone SDT. A copy of the Touchstone SDT was sent to Student with a notice to consumer. Pacifica did not file the Touchstone SDT with OAH.

On October 17, 2025, Pacifica issued an SDT to Dr. John T. Brentar, Morrissey Compton, called Morrissey. This SDT was served on Morrissey via overnight delivery on October 29, 2025. This SDT is referred to herein as the Morrissey SDT. A copy of the Morrissey SDT was sent to Student with a notice to consumer. Pacifica did not file the Morrissey SDT with OAH.

On October 17, 2025, Pacifica issued a SDT to Dr. Nancy Cushen-White, Dyslexia Evaluation and Remediation Clinic, called DERC. This SDT was served on DERC via overnight delivery on October 29, 2025. This SDT is referred to herein as the DERC SDT. A copy of the DERC SDT was sent to Student with a notice to consumer. Pacifica did not file this SDT with OAH.

STUDENT'S MOTION TO QUASH

On October 29, 2025, Student filed a Motion to Quash the Touchstone SDT, the Morrissey SDT, and the DERC SDT, which are sometimes referred to collectively herein as the Challenged SDTs. Student's motion to quash was based on three grounds. The first ground is that the description of the demanded documents and the applicable time period for the demanded documents in each of the Challenged SDTs are overbroad and constitutes an inappropriate fishing expedition and prehearing discovery. The second

ground for the motion is that Pacifica failed to make a showing of reasonable necessity for the demanded documents in each of the Challenged SDTs. The third ground for the motion was that the service of the Challenged SDTs failed to provide reasonable time for the subpoenaed parties to locate and produce the demanded documents.

THE TOUCHSTONE SDT

The records demanded in the Touchstone SDT are described in 12 broadly defined categories of documents concerning Student during the 2023-2024, 2024-2025, and 2025-2026 school years. However, all of those time periods are not at issue in this case. In fact, Pacifica filed a motion in limine in this case, which was denied at the PHC, seeking to exclude any evidence concerning events that occurred before February 14, 2025, because it contended such evidence is irrelevant to the single issue in this case. The documents demanded in the Touchstone SDT include, but are not limited to:

- report cards;
- progress reports;
- test scores;
- assessment reports;
- testing protocols;
- notes, summaries, logs, reports, data and other documents relating to interventions, including assistive technology services, academic interventions for math, reading, writing, and specific learning disabilities;
- service logs, reports, data or other documents regarding the subpoenaed party's staff working with Student;

- documents regarding Student's diagnoses that could impact Student's participation in various programs and activities;
- documents relating to private interventions or recommendations for interventions;
- records regarding the date, time and amount of services provided to Student;
- communication regarding Student's academic, mental health, social-emotional functioning, social interactions, and/or educational needs;
- written communications and correspondence with Parents regarding Student's mental health, social emotional functioning, occupational therapy, and education needs that could impact Student's participation in various programs and activities;
- educational school records reviewed by or provided to the subpoenaed party;
- contract for Student's enrollment at Touchstone; and
- written communications and correspondence with any of Pacifica's personnel regarding Student's educational needs or performance.

THE MORRISSEY SDT

The records demanded in the Morressy SDT are described in 10 broadly defined categories of documents concerning Student from the 2023-2024, 2024-2025, and 2025-2026 school years. The documents demanded in that subpoena duces tecum include, but are not limited to:

- assessment reports and testing protocols
- notes, summaries, logs reports, data, or other documents regarding Student's diagnoses that could impact Student's participation in various programs and activities;
- notes, summaries, logs, reports, data and other documents relating to private interventions, including speech and language therapy, occupational therapy, and mental health related services;
- records reflecting the date, time and amount of services provided to Student;
- written communications and correspondence with Parents regarding Student's mental health, social emotional functioning, occupational therapy, physical therapy and educational needs or services that could impact Student's participation in various programs and activities;
- educational school records reviewed by or provided to the subpoenaed party;
- written communication and correspondence with personnel of Stanbridge Academy about Student's educational needs or performance; and
- written communication and correspondence with personnel of Pacifica regarding Student's educational needs or performance.

It is curious why Pacifica demanded written communication and correspondence about Student with personnel of Stanbridge Academy. There no indication how or why Stanbridge Academy is related to this case as it is not mentioned in the complaint.

Moreover, Student's attorney asserted in oral argument at the November 3, 2025 PHC that Stanbridge Academy is not in any way related to this case.

THE DERC SDT

The records demanded in the DERC SDT are described in 15 broadly defined categories of documents concerning Student during the 2023-2024, 2024-2025 and 2025-2026 school years. The documents demanded in that subpoena duces tecum include, but are not limited to:

- report cards;
- progress report;
- test scores;
- assessment reports;
- testing protocols;
- notes, summaries, logs, reports, data and other documents relating to interventions, including assistive technology services, academic interventions for math, reading, writing, mental health and social emotional behavior interventions, and specific learning disabilities interventions;
- service logs, reports, data or other documents regarding the subpoenaed party's staff working directly with Student;
- documents regarding Student's diagnoses that could impact Student's participation in various programs and activities;

- documents relating to private inventions or recommendations for interventions;
- records regarding the date, time and amount of services provided to Student;
- communication between or including the subpoenaed party's staff regarding Student's academic, mental health, social-emotional functioning, social interactions, and/or educational needs;
- written communications and correspondence with Parents regarding Student's mental health, social emotional functioning, occupational therapy, and education needs that could impact Student's participation in various programs and activities;
- educational school records reviewed by or provided to the subpoenaed party;
- contract for Student's enrollment at DERC; and
- written communications and correspondence with any of Pacifica's personnel regarding Student's educational needs or performance.

Pacifica filed a written opposition to the motion to quash on November 3, 2025. That opposition is based on the grounds that all documents demanded in the Challenged SDTs are needed by Pacifica to defend itself in this case. Pacifica further argues it needs the demanded documents to evaluate:

- the appropriateness of Pacifica's offer of a FAPE;
- whether Student needs a more restrictive placement;

- the appropriateness of Touchstone Learning for Student and whether Parents should be reimbursed for Touchstone Learning's costs;
- Student's educational history and present levels of performance; and
- Student's responses to interventions and private services Student has received.

PREHEARING DISCOVERY AND REASONABLE NECESSITY FOR THE RECORDS

In general, there is no right to prehearing discovery in due process proceedings held pursuant to the Individuals with Disabilities Education Act, called the IDEA. Rather, the law accords prehearing access to two types of documents. Parents have the right to request and receive the pupil's educational records within five business days at any time, and the parties are entitled to receive copies of all the documents the other party intends to use at hearing, not less than five business days prior to the hearing. (Ed. Code, §§ 56504 & 56505, subd. (e)(7).)

However, 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); 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).) Thus, a subpoena duces tecum seeking production of documents on the day the hearing commences may be appropriate if the requisite showing of "reasonable

necessity" is adequately made in a declaration supporting the subpoena duces tecum, assuming no other legal bar to production exists.

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 CHALLENGED SDTS ARE OVERBROAD AND FAILED TO ESTABLISH REASONABLE NECESSITY FOR DEMANDED DOCUMENTS

The three Challenged SDTs issued by Pacifica are defective because the descriptions of documents demanded in each of the SDTs are overbroad. The records requested include demands for documents that exceed the scope of the limited single issue in this case. The Challenged SDTs demand documents about services not at issue in this case and services Student has never claimed to have needed. Also, the time period for the demanded documents is over three school years, while only Pacifica's offer of a FAPE in the IEP dated February 14, 2025, is at issue in this matter.

The three Declarations of Necessity of Pacifica's attorney, Kathryn Meola, dated October 17, 2025, supporting each of the Challenged SDTs fail to specifically address why Pacifica requires production of each of the numerous categories of documents demanded in the Challenged SDTs. Instead, Meola's declarations merely state that all the requested documents are critical to Pacifica's case in chief, to evaluate Parents' claim for reimbursement, and to understand student's educational history. These overly broad blanket statements regarding why Pacifica needs the voluminous documents demanded

in the Challenged SDTs are inadequate to establish the requisite reasonable necessity for the documents demanded in the Challenged SDTs. In Meola's three declarations of necessity Pacifica failed to specifically explain how and why each and every one of the categories of documents sought are reasonably necessary to Pacifica's defense in this case. Pacifica made no attempt to do this.

MOTION TO QUASH IS GRANTED

For the reasons discussed above Pacifica failed to establish it has a reasonable necessity for the demanded documents in the Challenged SDTs as required by Code of Regulations, title 5, section 3082, subdivision (c)(2). Meola's declarations of necessity supporting the Challenged SDTs are identical, overbroad, and do not address each of the many broad categories of documents demanded. Therefore, those declarations failed to adequately demonstrate that all demanded documents are "reasonably necessary" for Pacifica to defend itself at hearing.

Therefore, Student's motion to quash each of the Challenged SDTs is granted because the descriptions therein of the demanded documents are overbroad. Additionally, Pacifica also failed to establish it has reasonable necessity to obtain the documents demanded in the Challenged SDTs to defend itself.

ORDER

1. Student's motion to quash each of the subpoenas duces tecum issued by Pacifica School District to Touchstone Learning, Morrissey Compton, and Dyslexia Evaluation and Remediation Clinic on October 17, 2025, is granted in its entirety.

2. Within one day of Pacifica School District's receipt of this Order, its attorneys shall serve a copy of this Order on Touchstone Learning, Morrissey Compton, and Dyslexia Evaluation and Remediation Clinic.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings