

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RED BLUFF ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2011080264

ORDER DENYING MOTION TO
QUASH SUBPOENA DUCES TECUM
WITHOUT PREJUDICE

On August 8, 2011, Student filed a request for a due process hearing naming the Red Bluff Elementary School District (District). The Office of Administrative Hearings (OAH) has continued the matter a number of times; hearing is now scheduled to begin on February 14, 2012.

On December 22, 2011, Student filed a motion to quash subpoena duces tecum. Student states that on December 21, 2011, her legal counsel received copies of a subpoena, along with a notice to consumer, issued to the custodian of records for Partnership for Aumentative Communications Technology (sic), which has conducted an assessment of Student. Student bases her motion to quash on two grounds. First, that the subpoena is procedurally improper because only an administrative law judge may issue a subpoena in special education matters brought in front of OAH. Second, Student contends that the subpoena is substantively infirm because the declaration submitted in support of it is legally insufficient.

Student, however, did not include a copy of the subpoena with her motion. It is impossible to reach the substantive arguments Student raises without reference to the subpoena itself. Student's motion to quash is therefore denied without prejudice. Student may re-file her motion but must include a copy of the subpoena and the notice to consumer.

IT IS SO ORDERED.

Dated: December 28, 2011

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings