

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT

V.

FREMONT UNION HIGH SCHOOL DISTRICT.

CASE NO. 2026060323

DECISION

September 10, 2026

On June 5, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Fremont Union High School District. On July 6, 2026, during the prehearing conference, the hearing was continued at Fremont's request to July 21, 2026. Administrative Law Judge Ted Mann heard this matter by videoconference on July 21, 2026.

Student's father, called Parent, appeared on behalf of Student. Elizabeth Schwartz represented Fremont. Cathleen Rodriguez attended on Fremont's behalf. This Decision refers to both parents collectively as Parents and Father, individually, as Parent.

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At the parties' request, the matter was continued to August 7, 2026, for written closing briefs. The record was closed and the matter was submitted for decision on August 7, 2026.

## ISSUE

1. Did Fremont deny Student a free appropriate public education, called a FAPE, by materially failing to implement the September 17, 2025, individualized education program, called an IEP, by changing Student's exit date from special education and related services from July 31, 2026, to June 18, 2026?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called IDEA, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are to ensure:

- all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and
- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); See Ed. Code, § 56000, subd. (a).)

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The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Student has the burden of proof in this case. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 22 years old and had completed their final year of post-secondary special education at the time of hearing. Student resided within Fremont's geographic boundaries at all relevant times. Student was eligible for special education under the primary eligibility of autism. During the 2025-2026 school year, Student attended Morgan Autism Center, a nonpublic school, for their post-secondary adult special education program.

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ISSUE 1: DID FREMONT DENY STUDENT A FAPE BY MATERIALLY FAILING TO IMPLEMENT THE SEPTEMBER 17, 2025, IEP BY CHANGING STUDENT'S EXIT DATE FROM SPECIAL EDUCATION AND RELATED SERVICES FROM JULY 31, 2026, TO JUNE 18, 2026?

Student contends that Fremont denied Student a FAPE by failing to implement the September 17, 2025, IEP that recorded July 31, 2026, as Student's last day in special education following Student's reaching 22 years of age. Student also contends that Ed. Code, § 56026, subd. (c)(4)(A) operates to extend Student's time in special education beyond June 30, 2026, to allow Student to attend an extended school year program. Student further contends that the IEP is an enforceable contract between Student and Fremont that Student can enforce despite statutory provisions ending Student's time in special education and divesting Fremont of the ability to extend Student's eligibility.

Fremont contends that the September 17, 2025, IEP mistakenly listed Student's last day in special education and that upon discovering the mistake Fremont moved appropriately to correct it through series of means. Fremont also contends that the IDEA does not permit Student to remain in special education after the end of Fremont's 2025-2026 fiscal year. Fremont further contends that no implementation failure occurred, and if one did, that there was no material effect on Student. Lastly, Fremont contends that the mistaken IEP is not an enforceable contract that defeats the special education age limits under the IDEA.

A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel

develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a) and 56363 subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

A school district must implement all components of a student's IEP. (20 U.S.C. § 1414(d)(2)(A); 34 C.F.R. § 300.323(c).) When a student alleges the denial of a FAPE based on the failure to implement an IEP, in order to prevail, the student must prove that any failure to implement the IEP was "material," which means that the services provided to a disabled child fall "significantly short of the services required by the child's IEP." (*Van Duyn v. Baker School Dist. 5J* (9th Cir. 2007) 502 F.3d 811, 822 (*Van Duyn*).) A minor discrepancy between the services provided and the services required in the IEP is not enough to amount to a denial of a FAPE. (*Ibid.*) "There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education." (*Ibid.*) A brief gap in the delivery of services, for example, may not be a material failure. (*Sarah Z. v. Menlo Park City School Dist.* (N.D.Cal., May 30, 2007, No. C 06-4098 PJH) 2007 WL 1574569 at p. 7.)

"[T]he materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's

educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." (*Van Duyn, supra*, 502 F.3d at p. 822.)

Here, Student failed to present evidence that Fremont's adherence to a statutorily mandated special education exit date resulted in a material failure to implement Student's IEP. Rather, when a student ages out of special education eligibility, they are no longer entitled to a FAPE. (20 U.S.C. § 1412(a)(1)(B).) The obligation to make FAPE available to all children with disabilities does not apply with respect to children who have aged out of special education. (*Ibid.*; Ed. Code, § 56062, subds. (c)(4)(A) and (D).

Student, here, aged out of special education as of the end of the fiscal year on June 30, 2026, following their March 2026 birthday. Student was not entitled to a FAPE after June 30, 2026. As a result, Fremont was not obligated to continue providing Student with special education and related services between June 30, 2026 and July 31, 2026. Accordingly, Fremont did not materially fail to implement the IEP. Rather, Fremont had no legal obligation to continue providing services under any IEP, as more thoroughly explained below.

California Education Code section 56026, states in relevant part:

"Individuals with exceptional needs' means those persons who satisfy all of the following ...

(c)(4)(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for

individuals with exceptional needs established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year.

(D) No local educational agency may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

On September 17, 2025, Fremont convened Student's annual IEP. The September 17, 2025, IEP document contained information for four IEP team meetings held on September 17, 2025, September 29, 2025, November 14, 2025, and December 4, 2025. The latter three meetings focused primarily on transportation and behavioral

issues regarding Student. One or both of Student's parents attended each meeting. Fremont's first year regional program manager for the 2025-2026 school year, Alpana Singh, acting as the district representative, attended all but the September 29, 2025, IEP team meeting.

The IEP contained supplemental services and supports for Student that began on September 18, 2025, the day following the IEP, and ended on June 18, 2026, the last day of the 2025-2026 regular school year. Goals for the remainder of the 2025-2026 school year were written to conclude by July 2026 and had a final benchmark date of June 2026. Student's post-secondary goal service end dates were listed as July 31, 2026.

Supplemental services and supports for the Morgan Autism Center's summer program were also included for the dates July 6, 2026 through July 31, 2026. These dates were provided by Morgan Autism Center and included in the IEP document by district representative Singh who relied on Morgan Autism Center's information as they were providing service to Student. The IEP team found that Student did not need extended school year services to benefit the subsequent school year or prevent regression over the summer.

The IEP meeting notes for September 17, 2025, drafted by district representative Singh, stated that Student would age out of special education in July 2026, and that proposed goals and services would be written through the end of June 2026. Confusingly, the notes state that the Morgan Autism Center is a year-round program ending on July 31, 2026, and therefore an extended school year program was not offered. The notes further indicated that Student would graduate from the program on July 31, 2026. The notes also indicated the IEP team would conduct an exit IEP as they got closer to July 2026. Parents consented to and signed the September 17, 2025, IEP.

On May 18, 2026, the IEP team held an exit IEP team meeting to conclude Student's special education paperwork and to summarize his exit date and then current progress. Parents and district representative Singh attended the IEP team meeting. The IEP team and document both confirmed Student's exit date from Morgan Autism Center as a Fremont student would be July 31, 2026.

On May 19, 2026, Singh emailed the exit IEP documents to Parents in order to obtain a signature from them. Shortly after that, Singh met with Fremont's special education director, Nancy Sullivan, to discuss Student's special education exit date. Singh had realized that the other students she had placed at Morgan Autism Center had different graduation dates, and Singh was concerned something was wrong about Student's date. When meeting with Sullivan, Singh first learned that based on Student's March birthday, in combination with Fremont's fiscal year ending on June 30, 2026, Student's last date of eligibility for special education would be June 30, 2026.

Singh had worked with another area school district for 27 years coordinating special education for students between five and 14 years of age. Prior to the 2025-2026 school year, she had no experience with post-secondary students, particularly those aging out of special education. She was thus unaware of the particulars of determining the end of a student's eligibility under the Education Code.

Immediately after her meeting with Sullivan, Singh emailed Parents that Student's last day at Morgan Autism Center would be June 30, 2026, rather than July 31, 2026. Singh also indicated that she would make the change to the IEP that she had forwarded

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to Parents that morning. Parents wrote back to Singh, seeking to clarify whether June 30, 2026 was the last date for Student or whether Student would also attend the summer session in July 2026, indicating that the July 31, 2026, date was in Student's controlling IEP.

Singh responded, in turn, to Parents, indicating that Singh had received clarification of the correct exit date from Fremont's special education director Sullivan. Singh included the operative language from the California Education Code that used the end of the fiscal year as the eligibility cutoff. Singh directed further questions by Parents to Sullivan. Parents responded, again, indicating that the signed IEP provided the exit date to Parents, and requesting Sullivan's contact information. Parents then added a further response hours later, indicating their belief that the signed IEP date was controlling and that Fremont must adhere to that date. Parents requested a further response from Fremont by Friday, May 22, 2026, or Parents would complain to the California Department of Education and file a due process hearing request with OAH.

On May 22, 2026, Singh emailed Parents indicating that Fremont considered the correct exit date under the Education Code to be June 30, 2026. Singh attached the revised exit IEP document containing the revised date to the email. Parents emailed back to Singh refusing to sign the revised exit IEP document.

On May 27, 2026, director Sullivan spoke with Parents by phone to discuss the situation and the revised exit date. Sullivan followed up with an email the following day, apologizing for the error and notifying Parents of a further exit IEP meeting to be held on June 4, 2026. Sullivan attached the June 4, 2026, further exit IEP notice along with a Notice of Rights to her email.

On June 2, 2026, Sullivan sent a prior written notice letter to Parents by email. The letter explained the mistake that had been made and included the relevant portions of California Education Code Section 56026, including subsections (c)(4)(A) and (c)(4)(D) that led to Fremont's correction of the exit date. Sullivan also included other options considered by Fremont and attached a further copy of procedural safeguards to the email. Parents responded to the letter the same day, disagreeing with Fremont's position, and insisting Fremont was bound by the September 17, 2025, IEP.

On June 4, 2026, the second exit IEP meeting was held with the IEP team, including Parents, in attendance. The initial exit IEP was modified to include the correct dates for Student's exit from special education, and the notes section was expanded to include the discussions held at the June 4, 2026, meeting. Parents insisted that Fremont honor the date from the September 17, 2025, IEP and indicated that they intended to pursue the matter in court. The instant case was filed the following day on June 5, 2026.

Here, Parent's argument centers on the claim that Fremont materially failed to implement the September 17, 2025, IEP. This contention rests on the assumption that Fremont's implementation was deficient due to its adherence to the relevant portions of the Education Code governing the end of a Student's eligibility for special education, rather than a mistaken date on the September 17, 2025, IEP.

Any person who becomes 22 years of age during the months of January to June may continue to participate in their IEP program for the remainder of the current fiscal year. (Ed. Code, § 56026, subd. (c)(4)(A).) Thus, Student was entitled to participate in their program through the current fiscal year, or until June 30, 2026. Fremont was not permitted to develop an IEP that extended this eligibility date, nor was Student allowed

to attend school beyond this eligibility date. (Ed. Code, § 56026, subd. (c)(4)(D).) Therefore, after June 30, 2026, Student was no longer entitled to an IEP and Fremont was no longer obligated to provide Student with special education.

Student alleges that Fremont should have implemented the July 31, 2026 date mistakenly included in the September 17, 2025, IEP, but failed to offer any legal authority that a district can extend a student's special education program in contravention of the Education Code. Subdivision D is clear on its face that a district cannot extend a student's eligibility dates. Absent authority to the contrary, Student's argument fails.

Student alleges that Fremont's interpretation of Subdivision A is unduly restrictive as Subdivision A allows for a student to attend extended school year programs. However, Student ignores the clear limiting language that restricts any participation in an extended school year program to a period within the current fiscal year as stated in both Subdivisions A and D. Student failed to offer any legal authority to support Student's contention. Absent authority to the contrary, Student's argument fails.

Student alleges that the last consented to IEP, that of September 17, 2025, serves as a legally binding contract enforceable against statutory authority. However, Student failed to offer any legal authority to support this proposition.

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The IDEA requires public schools to have an IEP in effect for each child with a disability within their jurisdiction. (20 U.S.C. 1412(a)(4); 34 C.F.R. § 300.323.) An IEP is a plan developed cooperatively by school officials and the child's parents or guardians that contains a "written statement for each child with a disability ... of the special education and related services" that will be provided. (20 U.S.C. 1414(d)(1)(A)(IV).).

In *Van Duyn, supra*, the Ninth Circuit rejected a student's attempt to have it resolve ambiguities in the student's favor, calling the argument that his IEP should be interpreted under state contract law "meritless." (*Van Duyn, supra*, 502 F.3d 811 820.) The Ninth Circuit reasoned that "the IEP is entirely a federal statutory creation, and courts have rejected efforts to frame challenges to IEPs as breach-of-contract claims. (*Ibid.*) There, as here, the student offered no examples of a court treating an IEP as a contract and the Ninth Circuit has held that it is not.

Student failed to demonstrate, by a preponderance of the evidence, that Fremont failed to materially implement the September 17, 2025, IEP. Fremont prevailed on Issue 1.

## CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

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## ISSUE 1:

Did Fremont deny Student a FAPE by materially failing to implement the September 17, 2025, IEP by changing Student's exit date from special education and related services from July 31, 2026, to June 18, 2026?

Fremont did not deny Student a FAPE by materially failing to implement the September 17, 2025, IEP.

Fremont prevailed on Issue 1.

## ORDER

All of Student's requested remedies are denied because Fremont prevailed on Issue 1.

## RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

Ted Mann

Administrative Law Judge

Office of Administrative Hearings