BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MATEO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2025080304

ORDER GRANTING IN PART, AND DENYING IN PART, REQUEST FOR OFFICIAL NOTICE

DECEMBER 4, 2025

On August 7, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming San Mateo County Office of Education. For good cause, OAH continued the hearing to October 7, 2025. The hearing took place on October 7, 8, 14, 15, 16, 28, 29, and 30, and November 12 and 13, 2025.

SAN MATEO'S REQUEST FOR OFFICIAL NOTICE OF EXHIBITS D32 AND D33

During the hearing, San Mateo requested that the ALJ take official notice of Exhibits D32 and D33, which San Mateo's counsel represented were performance trend

reports for English language arts and math regarding the California Assessment of Student Performance and Progress, known as the CAASPP.

At hearing, San Mateo represented that Exhibit D32 was a performance trend report for English language arts for students in grade 11 during the 2023-2024 school year from the California Department of Education website, showing a 133-point difference when comparing average scale-scores of English learners and students who were native English speakers.

San Mateo also represented that Exhibit D33 was a performance trend report for math for students in grade 11 during the 2023-2024 school year from the California Department of Education website, showing a 156-point difference when comparing average scale-scores of English learners and students who were native English speakers.

On October 16, 2025, the parties filed a stipulation agreeing to certain facts that were the subject of official notice under Evidence Code section 452, subdivision (h), including:

- The California Department of Education publishes data relating to student performance on the CAASPP on its website for English Language Arts/Literacy and Mathematics for students in grades 3 through 8 and 11, which are viewable by year and grade level.
- The website allows a user to view results for students in different categories of English language fluency, including students categorized as English Learners.

- The website allows a user to compare results of the assessments for students in different categories of English language fluency, including students categorized as English Learners, by using the website's Performance Trend tool.
- Exhibits D32 and D33 were obtained from the above-referenced website by using the above-described process.

SAN MATEO'S SUPPLEMENTAL REQUEST FOR OFFICIAL NOTICE

On October 16, 2025, San Mateo filed a request for official notice pursuant to Government Code section 11515, and Evidence Code section 452, subdivisions (c) and (h). San Mateo requested that the ALJ take official notice of the existence and contents of the publications and displays on the CAASPP Test Results website, as official publications and tables maintained by the California Department of Education and facts capable of accurate determination from a source of indisputable accuracy, including the following:

- The CAASPP Test Results website is the California Department of Education's public portal for viewing aggregate results of the English language arts/literacy and mathematics assessments for students in grades 3 through 8 and 11 who took the test, including the ability to filter by administration year, grade level, and English language fluency subgroups, including English Learners, and English Learners enrolled 12 months or more, and those enrolled less than 12 months.

- Exhibit A is a report from the website for the administration of the CAASPP during the 2023-2024 school year, reporting grade 11 statewide results for English Learners. In English language arts, the chart shows 7.46 percent met or exceeded state standards, and 68.87 percent did not meet those state standards. For math, the chart shows 3.11 percent met or exceeded state standards, and 88.80 percent did not meet state standards.
- Exhibit B is a report from the website for the administration of the CAASPP during the 2023-2024 school year, reporting grade 11 statewide results for English Learners enrolled 12 months or more. In English language arts, the chart shows 7.71 percent met or exceeded state standards, and 67.76 percent did not meet those state standards. For math, the chart shows 2.86 met or exceeded state standards, and 89.15 percent did not meet state standards.
- Exhibit C is a performance trend report for English language arts for students in grade 11 during the 2023-2024 school year, showing a 136-point difference when comparing average scale-scores of English learners enrolled 12 months of more, and all students who took the test.
- Exhibit D is a performance trend report for math for students in grade 11 in the 2023-2024 school year, showing a 118-point difference when comparing average scale-scores of English learners enrolled 12 months of more, and all students who took the test.

In its request for official notice, San Mateo argues that Student took the CAASPP during the 2023-2024 school year while in 11th grade and Student's Exhibit S15 reflects Student's English language arts and math results. By its request for official notice, San Mateo seeks to demonstrate context for purposes of determining the weight that should be given to Exhibit S15, which was admitted into evidence.

STUDENT'S OPPOSITION TO THE REQUEST FOR OFFICIAL NOTICE

On October 21, 2025, Student filed opposition to the request for official notice. Student argues San Mateo failed to meet the standards for official notice because San Mateo is requesting not only official notice of the existence of the documents, but the truth of the contents of the documents. Student argues that taking judicial notice of an "official act" under Evidence Code section 452, subdivision (c), only includes the act of collecting and publishing the data, not the contents of the documents produced by the official act.

Student also argues that Evidence Code section 452, subdivision (h), does not apply because San Mateo has provided no information as to how the California Department of Education collects and analyzes the information put on the website. Student also argues San Mateo may not use official notice to establish the truth of all facts contained the documents. Student acknowledges that the information was obtained by San Mateo using the California Department of Education website search functions, but argues that does not establish foundation for the information contained in the documents. Student asserts that the request is overbroad to the extent San Mateo seeks to undermine the significance of Student's CAASPP scores in Exhibit S15 because San Mateo's proffered exhibits pertain to all students who did not meet state standards at any level of English learner status, and are not specific as to Student's score or his English learner status, and have no relation to his Lexile and Quantile scores. Student also argues there is no evidence San Mateo relied on these exhibits during Student's assessment process.

THE PARTIES' ADDITIONAL ARGUMENTS

The propriety of the ALJ taking official notice of the requested information was argued at hearing as reflected on the record, including but not limited to, on November 13, 2025. Student's counsel argued, among other things, that although the information in the exhibits may have come from the California Department of Education website, Student was not stipulating or agreeing that the ALJ could take official notice of the truth of the information contained in the documents. The ALJ requested further briefing by November 20, 2025, and took the matter under submission.

On November 20, 2025, San Mateo filed a supplemental brief. San Mateo argues that the students who met or failed the CAASPP are published on the California Department of Education's website, which San Mateo claims is a source of indisputable accuracy for educational purposes. It argues that the figures are not subject to reasonable dispute because they come directly from the state's assessment data, and there is no real claim by Student that the data is not accurate or reliable or subject to reasonable dispute. It argues that it is not a mystery how the data is collected, there is no analysis by the California Department of Education, and the data does not require interpretation of the information. It argues that the data supports logical inferences about the performance of English learners as compared to all students in California who took the CAASPP. It contends that because the published CAASPP results are easily verifiable public data, the ALJ has authority to take official notice of the results under Evidence Code section 452, subdivision (h). It argues that the request is also appropriate under Evidence Code section 452, subdivision (c), as an official act of the state because reporting of the data is required.

San Mateo also attempts to distinguish some of the cases on which Student relies to oppose the request for official notice of the website data. San Mateo argues that it is

not requesting that the ALJ reach any particular conclusion about Student from the public data, but merely to take notice of the fact that based on the California Department of Education official records, the identified percentage of English learners who met grade-level-standards, and that a performance gap exists between English learners and the general population of test takers. It argues that the ALJ is free to determine what weight to accord the California Department of Education data in evaluating Student's performance. It argues that any disagreement as to the implications of the test results for Student can be addressed through argument and other evidence. It argues that this is a proper use of official notice and comports with the authorities cited by Student, and that the CAASPP data is relevant to contextualize Student's performance as an 11th-grade English learner enrolled for more than 12 months.

Student also filed a supplemental opposition brief on November 20, 2025. Student again argues that the charts do not meet the standard for official notices under Evidence Code section 452, subdivision (h). Student contends San Mateo has not explained how testing data is reported by the school districts, verified by the California Department of Education, and cleaned for anomalies and suspicious outliers. Student assets San Mateo has not explained how the data is analyzed to create the reported subgroups, or what occurs when districts fail to report data or how testing waivers are taken into account. Student attempts to distinguish the cases San Mateo relies on, noting that in one of the cases, the ALJ declined to take official notice of the contents of the spreadsheets from the California Department of Education website. Student asserts the information San Mateo requests official notice of requires witness explanation, as evidenced by the series of questions the ALJ asked San Mateo's attorney at hearing to understand the documents.

APPLICABLE LAW

The Government Code provides that administrative tribunals may take official notice of any fact which may be judicially noticed by the courts of this State. (Gov. Code, § 11515.)

Judicial notice may not be taken of any matter unless authorized or required by law. (Evid. Code, § 450.) The trial court shall take judicial notice of any matter specified in Evidence Code section 452 if a party requests it, provides notice, and furnishes the court with sufficient information to enable it to take judicial notice. (Evid. Code, § 453, subds. (a) & (b).) Evidence Code section 452, subdivision (c), provides that judicial notice may be taken of official acts of the legislature, executive, and judicial departments of the United States and of any state of the United States. Evidence Code section 452, subdivision (h), provides that judicial notice may be taken of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

As with evidence generally, the matter to be judicially noticed must be relevant to the issues in the case. (*Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 (*Mangini*) (overruled on other grounds in *In re Tobacco Cases II* (2007) 41 Cal.4th 1257, 1276; *Mozetti v. City of Brisbane* (1977) 67 Cal.App.3d 565, 578; *Ochoa v. Anaheim City School Dist.* (2017) 11 Cal.App.5th 209, 221-222 (*Ochoa*) [granting judicial notice of the State Department of Education's 2015 school report, but denying one of four requests for judicial notice where there was a failure to demonstrate how that information would be helpful to the resolution of the issues in the case].)

Taking judicial notice of the official acts of a governmental entity does not require the court to accept the truth of the factual matters that might be deduced

therefrom. (*Mangini*, *supra*, 41 Cal.4th at p. 1063 [declining to take judicial notice of contents of a report by the U.S. Surgeon General on tobacco use because judicial notice limited to existence of the report]; *Ragland v. U.S. Bank National Association* (2012) 209 Cal.App.4th 182, 193-194 [the court could take judicial notice of the existence of an audit report of a savings bank prepared by the U.S. Treasury Department but could not take judicial notice of the truth of the contents because they were subject to interpretation]; *Licudine v. Cedars-Sinai Medical Center* (2016) 3 Cal.App.5th 881, 902 (*Licudine*) [although report by United States Bureau of Labor Statistics was official act, judicial notice did not extend to the median salary statistic contained in the report where the report did not cite any further source for the salary figure and the report could not verify its own accuracy]; *Duronslet v. Kamps* (2012) 203 Cal.App.4th 717, 737 [judicial notice of information on California Board of Registered Nursing website declined where failure to provide court with information sufficient to show the information was "not reasonably subject to dispute" and "capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy"].)

Simply because information is posted on the internet does not mean it is not reasonably subject to dispute. (*Jolley v. Chase Home Finance, LLC* (2013) 213 Cal.App.4th 872, 887-890 [agreement not judicially noticeable as an official act of federal government because although document was posted on Federal Deposit Insurance Corporation website, authenticity of the document was in dispute]; but see *Scott v. JP Morgan Chase Bank* (2013) 214 Cal.App.4th 743, 752-732, 760 [judicial notice taken, as official acts of the Federal Deposit Insurance Corporation, of information in an agreement where there was no dispute that a copy of the agreement posted on the its website was the actual agreement nor a dispute as to the agreement's legal effect]; *Conway v. Shewry* (2005) 131 Cal.App.4th 1354, fn. 5 [declining to take judicial notice of a California State Auditor's report, stating, "Beyond the mere fact that the report exists,

the availability of the report on the internet hardly renders the content of the report 'not reasonably subject to dispute'"].)

In *Licudine*, the trial court denied the plaintiff's request for judicial notice of a printout from a website of the United States Bureau of Labor Statistics that indicated the median annual salary for attorneys in 2012 was $113,530. The court of appeal upheld the denial, stating that although the Bureau's report was an official act of a federal executive agency, this did not extend to the truth of facts relayed through the official act, the salary figure was not capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy, and the report could not verify its own accuracy. (*Licudine*, *supra*, 3 Cal.App.5th at pp. 184-185.) The court made clear that "this was not to say that an expert could not rely upon the Bureau's report in forming an opinion [citations omitted], but the report's factual findings are not themselves subject to mandatory judicial notice." (*Id.* at p. 186.)

DISCUSSION

San Mateo's request for official notice pursuant to Evidence Code section 452, subdivision (c), is granted limited to the existence of the California Department of Education website and the reports from the website, as official acts of the California Department of Education. The official notice taken pursuant to Evidence Code section 452, subdivision (c), does not extend to the truth of facts relayed through these official acts, particularly regarding the accuracy of the statistics San Mateo seeks to have the ALJ take official notice of in the various charts it has proffered. To the extent San Mateo seeks to have the ALJ take official notice pursuant to Evidence Code section 452, subdivision (c), of the truth of the statistics in the various charts it has proffered, that request is denied.

San Mateo's request for official notice pursuant to Evidence Code section 452, subdivision (h), is denied. San Mateo failed to establish that the figures contained in the reports are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. In its brief, San Mateo focuses its argument on whether the information is reasonably subject to dispute. However, it does not persuasively address how the data in the reports are "capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy" – the requisite second prong necessary to take judicial notice under Evidence Code section 452, subdivision (h).

Thus, while the published test results may come from the state's assessment data, they must be subject to immediate and accurate determination to qualify for official notice pursuant to Evidence Code section 452, subdivision (h). The California Department of Education website appears to provide the ability for accessing the state's assessment data, but the data is not subject to immediate and accurate determination. Regarding the data, the website states that, "Use of these research files requires some expertise in the handling of data and advanced data management skills. Many of the district and county research files are very large (up to 130MB) and may be too large for spreadsheet applications. Database applications such as MS Access, SAS, or SPSS are required to manage these files."

The two cases San Mateo relies on are not persuasive. While it is true that in *Ochoa*, the court granted judicial notice of a Department of Education school performance plan and a transition plan, the court did not discuss Evidence Code section 452, subdivision (h). (11 Cal.App.5th at pp. 221-222.) San Mateo's reliance on *Student v. Los Angeles Unified School Dist.* (August 8, 2024) OAH Case No. 2024020026 was also unconvincing. In that case, it does not appear that any party was opposed to the ALJ

taking official notice and the ALJ did not specifically analyze the applicability of Evidence Code section 452, subdivision (h). Moreover, the ALJ took issue with petitioner's failure to call witnesses to explain the California Department of Education website spreadsheets or validate petitioner's interpretation of them. In any event, orders and decisions rendered in special education hearing proceedings are not binding authority in subsequent proceedings. (Cal. Code Regs., tit. 5, § 3085.)

Accordingly, the ALJ takes official notice of San Mateo's Exhibits D32, D33, A, B, C, and D, as limited above in the first paragraph of the "Discussion."

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings