

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENTS ON BEHALF OF STUDENT

v.

VISTA OAKS CHARTER SCHOOL

CASE NO. 2026050648

DECISION

SEPTEMBER 11, 2026

On May 14, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Parents on behalf of Student, naming Vista Oaks Charter School. Administrative Law Judge Chris Butchko heard this matter by videoconference on June 30, July 1 and 2, July 7 through 9, July 14 through 16, and July 21 through 24, 2026.

Student's parent represented Student at hearing. Debra Ferdman, Attorney at Law, represented Vista Oaks Charter School, assisted by Erica Williams, a certified law student. Lucy Berk Fisher, Vista Oak's Director of Special Education, and Joy Groen, Vista Oak's Executive Director, attended the hearing on behalf of Vista Oaks.

Following completion of the hearing on July 24, 2026, the matter was continued to August 28, 2026, for the submission of final briefing. Upon receipt of the parties' briefing, the record was closed and the matter submitted for decision on that date.

ISSUES

1. Did Vista fail in its child find obligations from May 14, 2024, to May 14, 2026, by failing to find Student eligible for special education under the category of autism?
2. Did Vista deny Student a free appropriate public education, known as FAPE, by predetermining that Student did not qualify for special education at the March 10, 2025, IEP team meeting?
3. Did Vista deny Student a FAPE by failing to conduct an appropriate March 6, 2025, psychoeducational assessment?
4. Did Vista deny Student a FAPE by failing to offer intensive math interventions, writing supports, and speech language supports, at the March 10, 2025, IEP team meeting?
5. Did Vista deny Student a FAPE by failing to offer independent educational evaluations in psychoeducation, academics and speech language in response to Parents' April 2026 request, or timely file for due process?

(This space is intentionally left blank. Text continues on the following page.)

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, 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 Individuals with Disabilities Education Act, referred to as 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).)

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; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Student, as the filing party, has the burden of proof on all

issues. 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).)

A FAPE means special education and related services for a child eligible under state educational standards that are available 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 individualized education program, known as 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.)

Student was nine years old and had completed third grade at the time of hearing. Student was enrolled with Vista Oaks at all relevant times. Student was homeschooled and Parent was Student's primary teacher. Vista Oaks provided a case manager who oversaw Student's curriculum and monitored Student's work samples. Student had scheduled enrichment days at a Vista Oaks campus site one day a week. These days were the only times Vista Oaks staff interacted with Student other than during the monthly visits to Student's home by the case manager.

Vista Oaks held an IEP team meeting at Parents' request on March 10, 2025, to consider whether Student was a child with a disability requiring special education services. Student was not found eligible for special education services at any time.

Parent represented Student at hearing and was sworn as a witness so that factual statements made during questioning could be considered as evidence, but Parent did not give direct testimony or undergo cross-examination. Parent was not an attorney.

ISSUE 1: CHILD FIND AND AUTISM ELIGIBILITY

Student contends that Vista Oaks failed in its child find obligation because Student should have been found eligible for special education due to autistic characteristics. Parent believed that Student displayed social, sensory, attentional, communication, and behavioral challenges typical of autism. Parent believed that Student was likely to have autism because three of Student's siblings, who are triplets, were significantly impacted by autism.

Vista Oaks counters that it complied with its child find responsibility and did not see anything about Student that raised concerns about autism in either staff's interactions with Student or from the assessments conducted in response to Parents' requests.

Student has combined the child find issue with Vista Oak's determination of ineligibility for special education services. As presented, the issue is resolvable by examining whether Vista Oaks assessed Student's eligibility for special education services in a timely fashion. Because Parent is not an attorney and to provide a complete analysis for any reviewing court, this Decision will also examine whether Student should have eligibility due to autistic characteristics.

CHILD FIND

A school district is required to actively and systematically seek out, identify, locate, and evaluate all children with disabilities, including homeless children, wards of the state, and children attending private schools, who are in need of special education and related services, regardless of the severity of the disability, including

those individuals advancing from grade to grade. (20 U.S.C. § 1412(a)(3)(A); Ed. Code, §§ 56171, 56301, subds. (a) and (b).) This duty to seek and serve children with disabilities is known as "child find."

A school district's child find obligation toward a specific child is triggered when there is knowledge of, or reason to suspect a disability, and reason to suspect that special education services may be needed to address that disability. (*Dept. of Ed., State of Hawaii v. Cari Rae S.* (D. Hawaii 2001) 158 F.Supp. 2d 1190, 1194 (*Cari Rae S.*)). The threshold for suspecting that a child has a disability is relatively low. (*Id.* at p. 1195.) The suspicion that a student may have an impairment that is affecting the student's educational performance, and requires special education, is sufficient to trigger a need to assess. (*Park v. Anaheim Union High School District* (9th Cir. 2006) 464 F.Supp. 1025, 1032, citing Ed. Code, § 56320.) A school district's appropriate inquiry is whether the child should be referred for an evaluation, not whether the child actually qualifies for services. (*Cari Rae S., supra*, 158 F.Supp.2d at p. 1195.)

Once a child is referred for assessment, the responsible school district has 15 calendar days from receipt of the request to prepare a proposed assessment plan, excluding days between terms and school holidays in excess of five days. (Ed. Code, § 56043, subd. (a).)

Parent observed tendencies in Student that were similar to those of Student's autism-impacted siblings. Parents brought those concerns to the attention of Student's teacher of record and requested assessment by an email dated December 17, 2024. In the email, Parents stated that they suspected Student was "neurodivergent," and that

they wanted Student assessed because three of Student's siblings were significantly impacted by autism. Student's siblings were also homeschooled in the Vista Oaks program and had IEPs.

Parents' request was received just before winter break. According to Vista Oak's school year 2024-2025 calendar, school was out of session from December 21, 2024, to January 5, 2025. Vista Oaks sent Parents an assessment plan on January 13, 2025. Excluding the winter break, 11 calendar days elapsed between Parents' request and the provision of an assessment plan.

By email dated January 14, 2025, Parents requested additional assessment of Student's speech and language ability due to a "mild lisp" and of Student's social skills. Vista Oaks agreed on January 16, 2025, to conduct a speech and language assessment, but noted in a separate prior written notice sent on January 16, 2025, that Student's social skills would be assessed as part of the psychoeducational assessment. In that prior written notice, Vista Oaks declined to conduct a transportation assessment, as transportation is a related service and not a disability category. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a).) The psychoeducational and speech and language assessments were conducted and were reviewed at a March 10, 2025 IEP team meeting.

Vista Oaks timely met its child find responsibilities in responding to the concerns raised by Parents in the December 17, 2024 email.

(This space is intentionally left blank. Text continues on the following page.)

AUTISM ELIGIBILITY

Autism means a development disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(1) (2014).)

The United States Court of Appeals for the Ninth Circuit has held that under the IDEA and California law school districts are required to provide special education services to a broad category of children, including any child who manifests autistic-like behavior, regardless whether he or she has been formally diagnosed with an autism spectrum disorder. (*Timothy O. v. Paso Robles Unified School Dist.* (9th Cir. 2016) 822 F.3d 1105, 1113, 1119 (*Timothy O.*); 34 C.F.R. § 300.8(c)(1); Ed. Code § 56846.2, subd. (a).) A child shall qualify as an individual with exceptional needs if an assessment demonstrates that the degree of the child's impairment requires special education. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(4) (2014).)

Student contends that Vista Oaks should have found Student eligible under autism because of Student's family history and "home-based deficits." Student argues that there were "red flags" of repetitive behaviors, strange mannerisms, social communication struggles, and academic indicators. Student does not cite or provide any examples of these concerning aspects in the closing brief.

Throughout the hearing, Parent expressed concerns about Student having academic, speech, socialization, sensory, attention, communication, and behavioral issues. Parent observed these issues at home, as Student's primary teacher and parent. At hearing, Parent stated that Student had academic difficulty, particularly in mathematics, unclear speech, and was inattentive at times. Parent also described Student as having sensory issues regarding loud sounds and particular smells, and saw Student engaging in self-stimulatory and soothing behaviors such as skin-picking, pulling or twisting hair, and spreading or tapping fingers against surfaces.

For the most part, these behaviors were not observed during Student's time on campus during Enrichment or by Student's assessors. Dana Moran, originally assigned as a homeschooling advisor to Student's family, did see Student twirl hair from time to time, but she did not view it as a concerning behavior. Once she saw Student put hands over ears during a meeting in a loud room, but the reaction was not unusual.

Student's Enrichment teacher did not observe any sensitivity to sounds in the class even though it would get loud. Similarly, she did not see Student repelled by ordinary smells, such as the glue or glue sticks that were used daily. She did see Student tap fingers against each other, but Student would do this during mathematics class to count up.

Student did not have difficulty socializing with peers. Parent expressed general concerns to Vista Oaks about Student's social skills, but did not report any specific concerns. At hearing, Parent asked school staff and assessors about Student being "hyperv verbal" and dominating conversations with peers in a way that was alienating or annoying. No one echoed Parent's concerns. Ms. Moran saw Student's social skills with peers as strong, but noted that Student's family was isolated, living in a rural area with

few local peers. Student's Enrichment teacher considered Student to be very social and sometimes dominant in groups but did not think Student's behavior was inappropriate or over-the-top.

Neither the psychoeducational assessor nor the speech and language assessor saw any reason to be concerned about Student being on the autism spectrum. The psychoeducational assessor did not observe any repetitive movements, atypical language, hyperactivity, or attentional challenges. Student worked well with others, was engaged and social, made appropriate eye contact, and maintained focus when working. The assessor found that Student would sometimes engage in "verbal mediation," meaning talking through the steps of a complex problem, but the assessor does not see that as an autistic trait.

The assessor scored the Behavior Assessment System for Children and the Autism Spectrum Rating Scales questionnaires given to Parents, Ms. Moran, and Student's Enrichment teacher. Parents reported elevated concerns on the behavior assessment with attention control, problem solving, and behavioral issues, but the sum of Parents' concerns did not equate to a disability. In the Autism Spectrum Rating Scales, Parents' reporting put Student as "slightly elevated" in severity, which is above the typical range but did not meet the threshold for a diagnosis.

In contrast, Ms. Moran and the Enrichment teacher reported no concerns that Student had autism. Parent argued at hearing that Vista Oaks staff had not seen Student often or recently enough to provide a full picture of Student's autistic characteristics, but the psychoeducational assessor chose the two persons at Vista Oaks with the most

(This space is intentionally left blank. Text continues on the following page.)

interaction with Student. Further, the psychoeducational assessor did not observe concerning behaviors during testing and found Student's social behavior entirely appropriate.

The psychoeducational assessor gave Student the Developmental Neuropsychological Assessment specifically to look for neurodevelopmental disorders such as autism or for organic brain damage. Student had low average auditory attention skills, but average and high average skills in affect recognition and theory of mind. The latter two tests focus on the ability to read others and understand their thoughts and intent. Overall, the psychoeducational assessor found Student behaved in a manner consistent with classroom peers, was exhibiting at or above average academic skills, and was building and maintaining social relationships with peers and adults. In the psychoeducational assessor's opinion, Student did not meet the eligibility criteria for autism.

The speech and language assessor reached the same conclusion. Although she saw Student had a mild lisp on /s/ and /z/ and would sometimes take a breath in the middle of words, Student's speech impediment was moderate at worst and did not materially affect intelligibility. Student's pragmatic and social speech skills were strong. Although some of the scoring on the standardized assessments contained math errors, the errors did not significantly affect Student's overall performance. The speech assessor found areas of strength in initiating conversation, turn-taking, consideration of others' feelings, and repair of communication breakdowns. Student displayed none of the pragmatic language and social communication disorders commonly found with autism.

Although child find requires only that schools identify and evaluate students suspected of having a disability, the analysis here has extended to consider if Vista Oaks erred in not finding Student eligible for special education due to autistic characteristics. It did not. Parents' concerns about autism are admittedly rooted in the effect autism has had on Student's siblings, but there has been little showing that Student displays autistic characteristics. Student has not met the burden of proof either that Vista Oaks did not meet its child find obligations or that it was incorrect in finding that Student was not eligible for special education as a child with autism.

Vista Oaks prevailed on Issue 1.

ISSUE 2: PREDETERMINING STUDENT'S ELIGIBILITY AT THE MARCH 10, 2025, IEP TEAM MEETING

Student contends that Vista Oaks predetermined that Student would not be eligible for special education because the psychoeducational and speech and language assessments were prepared in advance of the meeting and each expressed the opinion that Student should not be eligible. Student further argues that the fact that there was a pre-IEP meeting by Vista Oaks' staff proves predetermination.

Vista Oaks argues that it did not predetermine Student's eligibility. It contends the assessments were freely discussed at the IEP team meeting and Parents and their advocate fully participated at the meeting. Further, they argued the meeting held before the IEP was not inappropriate.

Predetermination of a student's educational program is a procedural violation that deprives the student of a FAPE because it denies parental participation in the decision-making process. (*Bd. of Educ. of Township High School Dist. No. 211 v. Lindsey*

Ross (7th Cir. 2007) 486 F.3d 267.) Predetermination occurs when an educational agency has decided on its offer prior to the IEP meeting, including when it presents one placement option at the meeting and is unwilling to consider other alternatives. (*Deal v. Hamilton County Bd. of Educ.* (6th Cir. 2004) 392 F.3d 840, 858 (*Deal*)). A district may not arrive at an IEP meeting with a "take it or leave it" offer. (*W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484; *J.G. v. Douglas County School Dist.* (9th Cir. 2008) 552 F.3d 786, 801, fn. 10.)

School districts may not unilaterally predetermine a child's special education and related services before an IEP team meeting. (*Deal, supra*, 392 F.3d at p. 858.) School administrators and staff must enter the IEP team meeting with an open mind and must meaningfully consider the parents' input. (*H.B., et al. v. Las Virgenes Unified Sch. Dist.* (9th Cir. 2007) 239 Fed. Appx. 342, 344; see also, *Ms. S. ex rel G. v. Vashon Island Sch. Dist.* (9th Cir. 2003) 337 F.3d 1115, 1131.) However, school officials do not predetermine an IEP simply by meeting to discuss a child's programming in advance of an IEP team meeting. (*N.L. v. Knox County Schs.* (6th Cir. 2003) 315 F.3d 688, 693, fn. 3 (N.L.) District IEP team members also may form opinions before IEP meetings as long as they are willing to listen and engage with the parents' objections and suggestions at the IEP team meeting. (*C.B. v. Garden Grove Unified School District* (C.D.Cal. 2012) 2012 WL 12887773, citing *N.L., supra*.)

In briefing, Student notes only that the assessment reports with recommendations were prepared before the March 10, 2025 IEP team meeting and that the Director of Special Education met beforehand with Student's Case Manager about the IEP team meeting. Without substantially more, those facts do not establish predetermination.

Vista Oaks argues that there is no evidence of predetermination and that the assessors testified that their reports only gave their opinions and left the final determination on eligibility to the IEP team as a whole. Parents and their advocate were not prevented from questioning the assessor's conclusions, voicing their own opinions, or participating in any way. Student has not argued that discussion or the meeting was cut short. The meeting notes in the March 10, 2025 IEP report span two pages, including Parents' and their advocate's questions to the assessors and Vista Oaks' staff. There was extensive discussion of Student's skills and abilities. The report notes that Parents raised the possibility of Student "masking" autistic characteristics after the team found Student not eligible under autism, and the psychoeducational assessor responding that she had found no skills related to autism for which Student needed support. Vista Oaks did not refuse to engage or shut down the IEP team meeting.

Accordingly, the meeting held before the IEP team meeting was not used to predetermine Student's eligibility. Ms. Moran stated that the meeting was conducted to make sure all the assessment reports were completed and to set an agenda to organize the discussion. She stated that no discussion was had and no determination made about Student's eligibility at the early meeting. Student has presented no contrary evidence and the conduct of the meeting shows that there was extensive discussion and give and take. Student has not carried the burden of proof to show that the eligibility decision was predetermined.

Vista Oaks prevailed on Issue 2.

(This space is intentionally left blank. Text continues on the following page.)

ISSUE 3: DENYING STUDENT A FAPE BY FAILING TO APPROPRIATELY CONDUCT THE MARCH 6, 2025, PSYCHOEDUCATIONAL ASSESSMENT

Student contends that the psychoeducational report was not appropriately conducted because it did not include an interview with Student's Enrichment teacher, it did not use a variety of tools and standard measures, and it did not acknowledge that the Enrichment class teacher only saw Student for a few hours a day once a week. Further, Student argues that the psychoeducational assessment overstates the direct involvement of the assessor.

Vista Oaks counters that the assessment was conducted by a qualified assessor who used a variety of tools and measures to assess Student, including standardized and normed tests, direct observation, and review of documents.

Both the IDEA and the California Education Code specify the manner in which assessments must be conducted and the qualifications of the assessors. (20 U.S.C. § 1414 (a) and (b); 34 C.F.R. § 300.502; Ed. Code, § 56320.) Tests and assessment materials must be administered by trained personnel in conformance with the instructions provided by the producer of such tests. (20 U.S.C. § 1414(a)(2), (3); Ed. Code, § 56320, subds. (a), (b).) Assessments must be conducted by individuals who are both "knowledgeable of the student's disability" and "competent to perform the assessment, as determined by the school district, county office, or special education local plan area." (Ed. Code, §§ 56320, subd. (g), and 56322; see 20 U.S.C. § 1414(b)(3)(B)(ii).) A psychological assessment must be performed by a credentialed school psychologist. (Ed. Code, § 56324.) Tests and assessment materials must be validated for the specific purpose for which they are used; must be selected and administered so as not to be

racially, culturally, or sexually discriminatory; and must be provided and administered in the student's primary language or other mode of communication unless this is clearly not feasible. (20 U.S.C. § 1414(a)(2), (3); Ed. Code, § 56320, subds. (a), (b).)

In conducting the assessment, the assessor must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, which may assist in determining whether the student is a child with a disability, and the content of the IEP. (20 U.S.C. § 1414(b)(2)(A)(i).) The assessor must use technically sound instruments to assess the relative contribution of cognitive and behavioral factors, as well as physical or developmental factors. (20 U.S.C. § 1414(b)(2)(C).)

The assessor must prepare a written report that includes:

1. whether the student may need special education and related services;
2. the basis for making that determination;
3. the relevant behavior noted during observation of the student in an appropriate setting;
4. the relationship of that behavior to the student's academic and social functioning;
5. the educationally relevant health, development, and medical findings, if any;

(This space is intentionally left blank. Text continues on the following page.)

6. if appropriate, a determination of the effects of environmental, cultural, or economic disadvantage; and
7. the need for specialized services, materials, and equipment for pupils with low incidence disabilities.

(Ed. Code, § 56327.)

The report must be provided to the parent at the IEP team meeting conducted to review the assessment. (20 U.S.C. § 1414(b)(4)(B); Ed. Code, § 56329, subd. (a)(3).)

The psychoeducational assessment was begun by a different assessor who conducted the parent interview and did some other initial work on the assessment. Because of a family emergency, the matter was handed off to the psychoeducational assessor. Both persons worked for Discovery Education, an agency contracted by Vista Oaks to handle overflow in psychoeducational assessment requests.

The psychoeducational assessor incorporated the work of the original assessor and completed the assessment. Her qualifications include a doctorate in combined and integrated clinical and school psychology and 10 years' experience as a credentialed school psychologist. She has co-authored three papers and made several presentations at conferences and conventions. She is credentialed to conduct the assessment and qualified and experienced in administering or supervising the testing. Her work on the assessment included three hours of observation of Student in Language Arts and Science class and at lunch. In addition, the psychoeducational assessor conducted three hours of standardized testing.

(This space is intentionally left blank. Text continues on the following page.)

As part of the assessment, the psychoeducational assessor administered the following assessments and rating scales:

- Wechsler Intelligence Scale for Children - fifth edition;
- Comprehensive Test of Phonological Processing Skills - second edition;
- Beery-Buktenica Developmental Test of Visual-Motor Integration;
- Developmental Neuropsychological Assessment, second edition;
- Behavior Assessment System for Children, third edition;
- the Autism Spectrum Rating Scale; and the
- Vineland Adaptive Behavior Scales, third edition.

She also reviewed the results of the Woodcock-Johnson IV Tests of Achievement that were administered at her direction by Vista Oaks' staff. Those tests were non-discriminatory, administered by qualified personnel, and valid for the purposes used. They were conducted in Student's native language of English. The psychoeducational assessor considered the results of testing overall to be a valid representation of Student's ability.

As part of the assessment, a written report was prepared and presented at the March 10, 2025 IEP team meeting and a report was provided to Parents in advance of the meeting. The report contained all required determinations and findings and included the assessor's recommendation regarding Student's need for special education services. The psychoeducational assessment met all statutory requirements.

Student objects that the assessment did not include an interview of Student's Enrichment teacher. The report does include input from the Enrichment teacher, but Student points out a discrepancy in testimony at hearing. The psychoeducational assessor stated that she talked with the Enrichment teacher in person and in the classroom about Student, but the Enrichment teacher said that the psychoeducational assessor did not discuss Student with her, despite visiting and observing the classroom. Student believes this conflict in testimony invalidates the psychoeducational assessment. It does not. There is no requirement that every teacher be interviewed and there is a section detailing input from the Enrichment teacher in the report. Whether that input was obtained by the author of the report in person, by email, or gathered by a third party is not critical. Unless there is some claim that the reported input is false or misleading, it does not matter how it was sourced and the differing testimony as to whether the parties talked is also not meaningful. Therefore, Student's argument regarding testimonial inconsistencies is unpersuasive to establish the psychoeducational evaluation was not appropriately conducted.

Student further asserts that the assessment report is invalid because it does not highlight the fact that Student's Enrichment teacher saw Student only once a week for four hours. Student asserts in briefing, without explanation, that this constitutes a "severe time discrepancy," presumably because that teacher would be less knowledgeable about Student than a teacher who saw Student every day for a full school day. The rating scales and assessment forms that the Enrichment teacher filled out were based on much less current knowledge than that possessed by the hypothetical teacher who saw Student for full school days each day. However, there were no better choices for the psychoeducational assessor to use. Being homeschooled, Student's most frequent point

of contact with school staff was the Enrichment teacher. The assessment report notes that Student is homeschooled and on campus one day a week. No further acknowledgement of Student's circumstance is needed.

Similarly, there is no weight to Student's complaint that the psychoeducational assessment does not differentiate among content gathered by the psychoeducational assessor, her predecessor, or the speech and language therapist who asked Student four questions by email. The assessment report is not broken out by contributors and does not need to be. The psychoeducational assessor is its author and responsible for the validity of all aspects of the report. Student has not claimed that the psychoeducational assessor could not answer questions about the report at the IEP team meeting or disclaimed responsibility for any fact, conclusion, or recommendation. There is no defect in the assessment report or the manner in which the assessment was conducted.

Student has not met the burden of proof of showing that the psychoeducational assessment was inappropriately conducted.

Vista Oaks prevailed on Issue 3.

ISSUE 4: FAILING TO OFFER SERVICES AT THE MARCH 10, 2025, IEP TEAM MEETING

Student contends that Vista Oaks should have offered support in mathematics, motor development, and speech and language at the March 10, 2025 IEP team meeting.

Vista Oaks counters that Student was not eligible for special education and thus has no entitlement to IEP services.

Only children with certain qualifying disabilities are entitled to special education services in order to receive a FAPE. For purposes of special education eligibility, the term “child with a disability” means a child with, as relevant here, autism, and who by reason thereof needs special education and related services. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Special education is required for individuals who are defined in part as individuals whose “impairment ... requires instruction, services, or both which cannot be provided with modification of the regular school program ...” (Ed. Code, § 56026, subd. (b).) California law defines special education as instruction designed to meet the unique needs of the pupil coupled with related services as needed to enable the pupil to benefit from instruction. (Ed. Code, § 56363, subd. (a).) Related services include developmental, corrective, and supportive services required to assist the child in benefitting from special education. (20 U.S.C. § 1401.) These services are provided through an IEP to qualifying students.

As determined in Issue 1, the evidence did not establish that Student was a child with a disability whose impairment required instruction, services, or both, which could not be provided with modification of her regular school program. Student was not eligible for special education, and therefore not entitled to an IEP. Vista Oaks was not obligated to develop and offer Student goals, interventions, or services in mathematics, motor development, and speech and language at the March 10, 2025 IEP team meeting.

Vista Oaks prevailed on Issue 4.

(This space is intentionally left blank. Text continues on the following page.)

ISSUE 5: FAILING TO OFFER INDEPENDENT ASSESSMENTS IN RESPONSE TO PARENT'S APRIL 2026 REQUEST

Student contends that Vista Oaks knew at the March 10, 2025 IEP team meeting that Parent disagreed with the findings of the psychoeducational and speech and language assessments. Once Vista Oaks was aware of the disagreement, they had a duty to either provide independent assessments or file to defend them without unnecessary delay.

Vista Oaks counters that it acted promptly when Parents confirmed their request for independent assessments on April 28, 2026, by sending a prior written notice on May 7, 2026, granting independent assessments in all areas in which it had assessed Student.

Under certain conditions, a student is entitled to obtain an independent educational evaluation at public expense. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502 (a)(1); Ed. Code, § 56329, subd. (b) [incorporating 34 C.F.R. § 300.502 by reference]; Ed. Code, § 56506, subd. (c) [parent has the right to an independent educational evaluation as set forth in Ed. Code, § 56329]; see also 20 U.S.C. § 1415(d)(2) [requiring procedural safeguards notice to parents to include information about obtaining an independent educational evaluation].) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. (34 C.F.R. § 300.502(a)(3)(i).) To obtain an independent educational evaluation, the student must disagree with an evaluation obtained by the public agency (34 C.F.R. § 300.502(b)(1)) and request an independent educational evaluation. (34 C.F.R. § 300.502(b)(2).) An "assessment" and an "evaluation" have the same meaning and are used interchangeably.

When a student requests an independent educational evaluation, the public agency must, without unnecessary delay, either file a request for due process hearing to show that its assessment is appropriate or ensure that an independent evaluation is provided at public expense. (34 C.F.R. § 300.502(b)(2); Ed. Code, § 56329, subd. (c).)

In briefing, Student condenses the law applicable to requests for independent assessments, rendering it as requiring a district to fund or file when a parent disagrees with an assessment or requests an independent assessment. That error is invited by the language of Education Code section 56329, subdivision (b), which says, in part, a parent may obtain an independent assessment at public expense “if the parent or guardian disagrees with an assessment obtained by a public agency” However, that section continues “in accordance with section 300.502 of title 34 of the Code of Federal Regulations.”

That section states the right to obtain an independent assessment is subject to certain additional conditions, which include:

(b) Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(This space is intentionally left blank. Text continues on the following page.)

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

A parent must disagree with the assessment conducted and request an independent assessment; it is not sufficient to simply disagree with the assessment and do nothing further.

As set forth in the statement of Issue 5, Parents did not request independent assessments until April 2026. Vista Oaks was not required to take any action prior to then or following Parents' disagreement with the assessments on March 10, 2025. Once Parents explicitly requested independent assessments, Vista Oaks acted in a timely fashion with its May 7, 2026, prior written notice granting independent assessments. There was no violation of the IDEA.

Vista Oaks prevailed on Issue 5.

(This space is intentionally left blank. Text continues on the following page.)

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.

ISSUE 1:

Vista Oaks did not fail in its Child Find obligations from May 14, 2024, to May 14, 2026.

Vista Oaks prevailed on Issue 1.

ISSUE 2:

Vista Oaks did not predetermine Student's eligibility at the March 10, 2025, IEP team meeting.

Vista Oaks prevailed on Issue 2.

ISSUE 3:

The March 6, 2025, psychoeducational assessment was appropriately conducted.

Vista Oaks prevailed on Issue 3.

(This space is intentionally left blank. Text continues on the following page.)

ISSUE 4:

Vista Oaks did not deny Student FAPE by failing to offer services at the March 10, 2025, IEP team meeting.

Vista Oaks prevailed on Issue 4.

ISSUE 5:

Vista Oaks did not fail to act timely in response to Parents' April 2026 request for independent assessments.

Vista Oaks prevailed on Issue 5.

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.

CHRIS BUTCHKO

Administrative Law Judge

Office of Administrative Hearings