BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MORAGA SCHOOL DISTRICT.

OAH CASE NUMBER 2025110028

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, AND GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING, ONLY

MARCH 25, 2026

On March 20, 2026, Administrative Law Judge Robert G. Martin, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Parent appeared on behalf of Student. Attorney Erin Frazor appeared on behalf of Moraga Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

DISTRICT'S MOTION TO CONTINUE HEARING GRANTED

On March 11, 2026, Moraga filed a motion to continue the due process hearing date of Thursday, April 2, 2026, on grounds that Moraga's representative for the hearing. and seven other Moraga employees to be called as witnesses, were unavailable due to pre-planned and pre-paid vacations during the district's spring break week of March 30, 2026 through April 3, 2026. Moraga's motion was supported by sworn declarations from the eight employees. Moraga requested that the hearing be continued five days to April 7, 8, and 9. At the PHC, Parent opposed Moraga's motion on grounds Student needed the relief sought in Student's complaint as soon as possible. In the event a continuance was to be granted, Parent requested the hearing be continued to April 14, 15, and 16, 2026, on grounds Parent needed to care for her children during their school's spring break week of April 6 through 10, 2026, and would be unavailable for hearing.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party or counsel due to excusable circumstances. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the length of continuance

requested and whether the parties have stipulated to a continuance. (Cal. Rules of Court, rule 3.1332(d).)

Moraga showed good cause to continue the April 2, 2026 due process hearing date due to the unavailability of witnesses. Both parties estimated several hearing days would be required, so that a hearing starting on April 2, 2026 would in any event have proceeded into the week of April 6 through 10, 2026. Parent showed good cause for a further short continuance of one week based on Parent's unavailability.

Accordingly, the ALJ granted Moraga's request for a continuance of the hearing at the March 20, 2026 PHC. The previously scheduled hearing dates were vacated at the PHC, with the case to proceed as follows:

DUE PROCESS HEARING: April 14, 15 and 16, 2026.

The hearing will be conducted via telephone or videoconference and shall begin at 9:30 AM and end at 3:30 PM on all days, unless otherwise ordered. The hearing shall continue day to day thereafter, Tuesdays through Thursdays, at the discretion of the ALJ. The parties anticipate it will take three to five days to complete the hearing. If needed, additional hearing dates will be discussed with the ALJ during the hearing.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

ISSUES AND PROPOSED RESOLUTIONS

In this Order, an individualized education program is called an IEP, and a free appropriate public education is called a FAPE. The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC, are:

1. Did Moraga deny Student a FAPE from October 31, 2023 to the filing of Student's complaint on October 31, 2025, by failing to assess Student's need for:
   A. Educationally-related mental health services?
   B. Occupational therapy?

2. Did Moraga deny Student a FAPE from October 31, 2023 to February 20, 2024, by failing to offer Student placement at Los Perales Elementary School?

3. Did Moraga's December 19, 2024 initial IEP for Student, completed February 3, 2025, deny Student a FAPE by failing to offer Student:

   A. An adequate amount of specialized academic instruction?

   B. An adequate amount of speech and language services?

   C. An adequate amount of counseling services?

   D. Any occupational therapy services?

4. Did Moraga deny Student a FAPE from the start of the 2025-2026 school year to the filing of the complaint on October 31, 2025, by requiring Parent to complete an interdistrict permit application as a condition to allowing Student to attend school?

5. Did Moraga violate Parent's procedural rights and deny Student a FAPE by failing to timely provide a copy of Student's educational records after Parent, through Student's attorney, requested them on May 23, 2025?

A party believing that an issue has been misstated or improperly omitted shall promptly file a notice in writing, before the first day of hearing, stating its concern and referring to supporting portions of the complaint.

PROPOSED RESOLUTIONS

Student's requested resolutions include a decision finding Student the prevailing party on all of Student's issues, and an order directing Moraga to fund independent educational evaluations in occupational therapy and educationally related mental health services, and offer Student a new placement with transition and transportation services, occupational therapy, increased amounts of specialized academic instruction, speech

and language services, and counseling services. Student also requests that Moraga be ordered to fund compensatory education including one-on-one intensive academic instruction, speech and language services, counseling services and occupational therapy through a non-public agency, and to provide Parent Student's educational records not already produced.

Moraga filed its response to Student's complaint on November 12, 2025. (*M.C. v. Antelope Valley Union High School Dist*. (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

EXHIBITS

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically. Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence in compliance with Education Code section 56505, subdivision (e)(7). If further assistance is needed, please contact OAH at OAHSEOps@dgs.ca.gov.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged as required by Education Code section 56505, subdivision (e)(7) shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

IDENTIFYING EXHIBITS AND PAGE NUMBERS

Each exhibit must be identified by a letter and number. Student must use the letter S before the number to identify Student's exhibits. Moraga must use the letter D, for district, before the number to identify Moraga's exhibits. For example, S-1 means Student's exhibit 1 and D-1 means Moraga's exhibit 1. A cover sheet with this

identifying letter and number should be the first page of each exhibit. The electronic evidence program will automatically number the exhibits and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

Parties should include resumes or curriculum vitae for each witness expected to testify as an expert.

Moraga's exhibits must include a copy of the school calendar for the 2023-2024, 2024-2025, and 2025-2026 school years.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically. Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

Parties are responsible for ensuring that all participants are familiar with and follow the Instructions for Joining the Online Due Process Hearing provided with this Order. Participants who have not previously used the Zoom application, may find informative instructions by visiting Getting Started with Zoom at https://support.zoom.us/hc/en-us/categories/200101697.

The parties are responsible for ensuring that witnesses join the virtual hearing room at the designated date and time to testify. Witnesses are required to join the due process hearing by computer and appear by videoconference unless they do not have the necessary computer equipment. If a witness does not have the necessary equipment, the ALJ may permit the witnesses to appear by audio only or by telephone. "Audio only" means using a computer without video.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need to call witnesses out of order.

Moraga has agreed to make its current employees available as witnesses without the need for subpoenas. Moraga is ordered to inform Student by the close of the next business day following the parties' exchange of final witness lists if any witness identified by Student as a Moraga employee is not currently employed by Moraga and must be subpoenaed to appear at the hearing. Moraga may either agree to accept service of a subpoena for such witnesses, or provide Student with the witness' most recent contact information.

Any contact information provided shall be used for the limited purpose of issuing subpoenas or for contacting a witness to attend the hearing. No contact information shall be disclosed to any other person.

The ALJ has discretion to limit the number of witnesses, and the time allowed for testimony. Education Code, section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence may be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to hear such evidence.

The parties are ordered to meet and confer on April 9, 2026 at 9:00 AM to discuss scheduling witnesses and how much time each witness will take to testify. Moraga's attorney shall place the call to Parent to start the meet and confer. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing, electronically viewing exhibits during the hearing, and subpoenas, if any. The parties should attempt to identify any duplicate exhibits in their hearing exhibits and decide which of the duplicates both sides will use at hearing. The parties shall discuss whether they can produce a written stipulation as to pertinent facts, contentions, resolutions and the authenticity and admissibility of documents to shorten the length of time needed for the hearing.

PARTICIPANT INFORMATION FORM

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH, and shall file an updated form as necessary. The Participant Information Form is not served upon the

opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case, Student requested the hearing and bears the burden of proof. Student's case-in-chief shall be presented first, followed by Moraga's, unless otherwise ordered or agreed.

WITNESS SCHEDULE

The parties must provide a joint proposed witness schedule to the ALJ on the first day of hearing. The list should include the first and last name of the witness, the witness' title, which party is calling the witness to testify, and include dates and time estimates of each witness's expected testimony. In the event an agreement cannot be reached, each party shall prepare a separate written schedule. The parties must have witnesses available in case there is no agreement.

At the beginning of the hearing, the ALJ and the parties will discuss the length of time anticipated for each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time for the testimony of each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine a witness on all issues when the witness is first called to testify. Requiring a witness to appear only once takes priority over the order in which parties present their case-in-chief.

AUDIO ONLY OR TELEPHONIC TESTIMONY

Whether a witness may appear by audio only or telephone instead of videoconference is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Moraga indicated it was unlikely, but possible, that it might need to telephonically present the testimony of one or more witnesses not having the required technology to participate via internet connection and/or video. Any party seeking to present a witness by audio only or telephone shall request permission to do so before the hearing. Any party seeking to present a witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

Both parties requested permission to make an audio recording of the hearing for personal note taking purposes. Permission to make an audio recording is subject to the ALJ's discretion and based upon the following conditions:

1. The OAH recording is the only official recording.
2. The parties shall turn their recording device on and off at the same time that the ALJ is on and off the record to avoid recording conversations while off the record.

3. Operation of the party's recording mechanism will not be allowed to delay the hearing.
4. A party's recording may not be given, provided, or played to a witness, or potential witness.
5. The recording is subject to the same confidentiality as the due process hearing.
6. Participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.
7. The parties are prohibited from using artificial intelligence to either record the hearing or transcribe the recording.

The parties' requests to make an audio recording of the hearing are granted. Each party may make an audio recording of the hearing for personal note-taking purposes, subject to the conditions above and any other orders made at the hearing.

VIDEO RECORDING

No party, witness, or anyone else may videorecord any part of the proceedings or stream live through any means.

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording shall be considered at the time of hearing.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable

portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education. Documents offered as evidence to support a request for reimbursement must be separated by vendor.

MOTIONS

At the PHC, the ALJ granted Moraga permission to file a motion to dismiss Student's Issue number 4. on jurisdictional grounds. The ALJ ordered the motion to be filed by 5:00 PM on March 25, 2026. Good cause exists for the late filing of the motion because Student's Issue 4. was not clear until it was discussed at the PHC. No other prehearing motions are pending or contemplated. Any motion that was not filed three business days before the PHC must be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

STIPULATIONS

Stipulations to pertinent facts, contentions, resolutions and authenticity and admissibility of documents are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing prior to the start of the hearing.

CONDUCT OF PARTICIPANTS AND HEARING ROOM DECORUM

All participants in the videoconference hearing should observe the same decorum as in an in-person due process hearing. Participants must conduct themselves in a professional and courteous manner. Cellular phones, telephones and computer notifications must be shut off or set to silent during the hearing unless the ALJ grants permission otherwise. Participants should appear from a private location, unless otherwise ordered. Participants should make reasonable efforts to minimize background noise and maintain adequate room lighting. Use of virtual background images are at the discretion of the ALJ. Witnesses are prohibited from reading exhibits, documents, notes, text messages, telephones or computers while testifying, unless permitted to do so by the ALJ. The parties, their representatives and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party requested a language interpreter or accommodation.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The email should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings. 0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the

Subject Line. Additional information concerning requests for a reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings.

HEARING CLOSED TO THE PUBLIC

The hearing is closed to the public. Special education hearings are closed to the public unless Student requests the hearing to be open to the public.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an

agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties are advised that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings