

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH Case No. 2017110028

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

DECISION

Student filed a due process hearing request with the Office of Administrative Hearings, State of California, on October 30, 2017, naming Santa Monica-Malibu Unified School District. OAH granted continuances of the matter for good cause on November 15, 2017, January 29, 2018, and March 22, 2018.

Administrative Law Judge Tara Doss heard this matter in Santa Monica, California, on May 15 and 16, 2018. Mother appeared on behalf of Student. Mother's close friend assisted Mother during the hearing. Student did not attend the hearing. Kristin Myers, Attorney at Law, represented Santa Monica-Malibu. Pamela Kazee, Santa Monica-Malibu's Special Education Director, appeared on behalf of Santa Monica-Malibu.

At the parties' request, OAH granted a continuance to June 4, 2018, to allow the parties to file written closing briefs. On May 31, 2018, OAH granted Student's unopposed request to continue the matter to June 18, 2018, to allow additional time to prepare the closing brief. On June 18, 2018, the parties timely filed their written closing briefs, the record was closed, and the matter submitted for decision.

ISSUES

(1) Did Santa Monica-Malibu deny Student a free appropriate public education in the December 2, 2015 individualized education program by failing to offer:

- (a) appropriate goals;
- (b) appropriate services in the areas of counseling, social/emotional support, and academics; and
- (c) an appropriate placement?

(2) Did Santa Monica-Malibu deny Student a FAPE in the January 8, 2016 IEP by failing to offer appropriate supports and services in the areas of counseling, social/emotional support, and academics?

(3) Did Santa Monica-Malibu deny Student a FAPE in the November 9, 2016 IEP by failing to offer:

- (a) appropriate goals;
- (b) appropriate services in the areas of counseling, social/emotional support, and academics; and
- (c) an appropriate placement?

(4) Did Santa Monica-Malibu deny Student a FAPE in the June 6, 2017 IEP by:

- (a) predetermining the offer of placement and services;
- (b) failing to consider input from Mother or other professionals working with Student;
- (c) failing to offer appropriate goals;
- (d) failing to offer appropriate services in the areas of counseling, social/emotional support, and academics; and
- (e) failing to make a clear written offer of placement?

SUMMARY OF DECISION

Student did not prove Santa Monica-Malibu failed to offer him a FAPE at the December 2, 2015, January 8, 2016, November 9, 2016, or June 6, 2017 IEP team meetings. Student's significant history of depression, anxiety, and school phobia resulted in his placement in a residential treatment facility during the 2014-2015 school year. By December 2015, all IEP team members, including Parents, agreed Student was ready to return to a less restrictive school placement. Santa Monica-Malibu completed a comprehensive psychoeducational evaluation and developed an IEP on December 2, 2015, that offered Student placement in a therapeutic program designed for students with Student's emotional profile at Malibu High School.

Student's placement at Malibu High School was marred with profound attendance issues and lack of work completion, which led to Student failing classes and falling back into symptoms of anxiety and depression. Student's argument that his poor performance was the result of Santa Monica-Malibu's failure to provide appropriate services and supports was contradicted by documentary evidence and witness testimony. Santa Monica-Malibu provided Student with appropriate counseling services and embedded program supports designed to help him access the educational program. School staff maintained frequent contact with Mother regarding Student's performance, and Mother played an active role in making educational decisions. Throughout the 2015-2016 and 2016-2017 school years, school staff urged Mother to consider additional academic and social/emotional supports for Student, but Mother resisted.

Mother had a difficult time maintaining structure for Student at home and ensuring his school attendance on a regular basis. Mother also pushed back on Santa Monica-Malibu's attempts to increase Student's academic and social/emotional supports, and to hold Student accountable for his behavior. When Santa Monica-Malibu

disagreed with exploring other placement options at the November 9, 2016 IEP team meeting, Mother decided to remove Student from Malibu High School and unilaterally placed him in a private school, with the intention of seeking tuition reimbursement from Santa Monica-Malibu. While Student showed some progress at the private school, the school did not have staff qualified to implement Student's IEP. Acknowledging Student's progress in a smaller school setting, Santa Monica-Malibu offered Student placement in a nonpublic school, where Student's IEP could be implemented, at the June 6, 2017 IEP team meeting. Mother insisted on continued placement at the private school and initiated this due process action.

For the reasons discussed in this Decision, Student did not prevail on any of his issues. All requests for relief are denied.

FACTUAL FINDINGS

1. Student was 17 years old and in the 11th grade at the time of hearing. He resided with Mother within Santa Monica-Malibu's boundaries at all relevant times. Student initially qualified for special education in sixth grade under the category of emotional disturbance. Student had a significant history of depression and anxiety, including social anxiety and other fears that resulted in school-avoidant behaviors.

2. Student was born in Russia and moved to Santa Monica, California with Mother and an older sibling prior to the start of the 2011-2012 school year and his fifth grade year. Mother and Father divorced in 2010. Mother was Student's primary caregiver. Father split his time living between California and Russia. It was not clear how often Student visited Father, but their relationship was strained. Student enrolled in John Muir Elementary School within Santa Monica-Malibu, and then matriculated to John Adams Middle School within Santa Monica-Malibu for sixth grade. During sixth grade, Student began refusing to attend school, which affected his academic performance. As a result of school-related anxiety, depression, and poor academic performance, Student

was found eligible for special education under the category of emotional disturbance. Santa Monica-Malibu and Mother agreed to change his placement to a positive behavior support class. When Student continued to exhibit school refusal and social anxiety, Santa Monica-Malibu offered home instruction.

3. In seventh grade, Student was assessed for and qualified to receive educationally related intensive counseling services.¹ Also during seventh grade, Student transferred to the Structured Therapeutic Education Program at Santa Monica Alternative School House within Santa Monica-Malibu.² STEP offered a smaller school setting and a non-traditional curriculum. Here, Student received both intensive counseling and school-based counseling. Additionally, Student attended school on a reduced schedule and received accommodations, including reduced workload and a positive behavior support plan. Despite the therapeutic services and accommodations, Student's school refusal and anxiety continued, and he fell further behind academically. At the end of seventh grade, Santa Monica-Malibu offered to place Student in a residential treatment center. Mother did not initially agree to residential placement but ultimately agreed, after Student was hospitalized in September 2014 due to symptoms of anxiety and depression.

¹ This Decision also refers to educationally related intensive counseling services as "intensive counseling."

² Witnesses and exhibits referred to this program as "STEP." This Decision, to be consistent with the record, refers to the Structured Therapeutic Education Program as STEP.

2014-2015 SCHOOL YEAR: STUDENT'S ENROLLMENT IN A RESIDENTIAL TREATMENT CENTER

4. In fall 2014, Santa Monica-Malibu and Mother enrolled Student in The Sonia Shankman Orthogenic School ("O School") in Chicago, Illinois, during Student's eighth grade year. Student participated in weekly individual counseling and social skills group sessions, and bi-weekly family counseling sessions. When Student first arrived, he engaged in tantrum-like behaviors including crying, hiding under his bed, yelling, swearing, and attempting to negotiate with staff. He also routinely "shut down" or withdrew when experiencing anxiety and struggled to complete daily tasks. Due to these behaviors, along with perfectionist tendencies and time management difficulties, Student struggled to keep up with school assignments.

5. Eileen O'Connor, a school psychologist and Student's assigned mental health case manager, regularly communicated with Student's clinical case manager at the O School and visited Student two times during the 2014-2015 school year. Ms. O'Connor was employed by Culver City School District but was the designated mental health case manager for school districts within the Tri-City Special Education Local Plan Area that had students at residential treatment centers. Santa Monica-Malibu was a member of Tri-City. Ms. O'Connor was Student's case manager throughout his placement at the O School.

6. Ms. O'Connor visited Student in February 2015 to meet with O School staff and review Student's progress. Student had shown great progress in four months at the O School. He had acclimated to the routine and was no longer engaging in school refusal. Student's therapist described him as kind, insightful, and understanding of others. Student's teacher described him as a hard worker and conscientious about checking in regarding school assignments. Although Student still exhibited anxiety, it manifested as disruptive or "silly" behavior in the classroom or dorm, instead of school

refusal. Overall, the O School staff considered Student happier and healthier than when he arrived.

2015-2016 SCHOOL YEAR: STUDENT'S RETURN TO SANTA MONICA-MALIBU

7. Student's emotional and academic progress continued during his ninth grade year at the O School. Towards the end of the first semester, O School staff expressed to Santa Monica-Malibu and Parents that Student was ready to transition back home.

Psychoeducational Evaluation

8. In preparation for Student's transition, Santa Monica-Malibu conducted a psychoeducational evaluation in November 2015. Ms. O'Connor conducted the evaluation and issued a 37-page report on November 30, 2015. The evaluation included a review of records, school observation, interviews with O School staff, Parents and Student, and standardized testing. Ms. O'Connor administered the Wechsler Intelligence Scale for Children-Fifth Edition. While Student's overall cognitive ability was in the average range, he scored in the superior range in visual spatial skills, the high average range in fluid reasoning and working memory, and the average range in processing speed. Student scored in the low average range in verbal comprehension, which may have been the result of English being his second language. To measure Student's academic achievement, Ms. O'Connor administered the Wechsler Individual Achievement Test-Third Edition. Student scored in the average range in all academic areas, with the exception of the sentence composition and numerical operations subtests, where he scored in the below average range.

9. On the Behavior Assessment Scale for Children, 2nd Edition, Father rated Student at risk or clinically significant in the areas of anxiety, attention problems, hyperactivity, depression, aggression, somatization, adaptability, social skills, and daily

living skills. Ms. O'Connor cautioned Father's scores because his ratings were very different than those from Student's teachers and Mother; and seemed to reflect Student's behavior when he enrolled at the O School instead of his behavior at the time of the assessment. Mother did not identify any areas as at risk or clinically significant. More than one teacher rated Student as at risk or clinically significant in the areas of anxiety, attention problems, and hyperactivity. Student's self-rating was in the average range, and his responses revealed a positive self-image in both personal and physical attributes.

10. Ms. O'Connor also evaluated Student's anxiety and depression in additional standardized measures. On the Revised Children's Manifest Anxiety Scale-Second Edition, Student scored overall in the average range, signifying his anxiety levels were no more problematic than for most students. On the Children's Depression Inventory-Second Edition, Student scored in the average or typical range, which indicated he was not experiencing negative moods or difficulty with school or peers. On the Comprehensive Executive Function Inventory, Student, Student's therapist, and all teachers rated Student as having average executive functioning skills, including emotional regulation, attention, planning, and organization. Student's therapist completed the Scale for Assessing Emotional Disturbance, 2nd Edition, and rated Student's physical symptoms or fears, such as being anxious, having nervous habits, and exhibiting fears of unlikely dangers, as being indicative of emotional disturbance.

11. Ms. O'Connor's analysis, based on all of the information gathered through the various assessment tools, concluded Student continued to meet the eligibility criteria of emotional disturbance as a result of a tendency to develop physical symptoms or fears associated with personal or school problems. Ms. O'Connor made several recommendations for the IEP team to consider, including: positive encouragement and reinforcement; cognitive behavioral strategies; setting clear boundaries; reminding

Student of making choices consistent with his values; counseling; family therapy; and engagement in physical and social activities.

December 2, 2015 IEP Team Meeting

12. On December 2, 2015, Santa Monica-Malibu convened Student's triennial IEP team meeting to review the results of the psychoeducational evaluation and to discuss Student's transition back to a Santa Monica-Malibu placement. The IEP team consisted of Student, Mother, Father, Mother's close friend, Santa Monica-Malibu special education coordinator Victoria Hurst, Ms. O'Connor, Student's individual therapist, Student's family therapist, Student's counselor, one of Student's teachers, and the O School principal. Prior to the IEP team meeting, Ms. O'Connor met separately with Mother and Father to discuss the assessment results and placement options for Student once he returned to California. Ms. O'Connor discussed Santa Monica High School, a large comprehensive campus with approximately 3,000 students; Olympic High School, an alternative campus with approximately 100 students; STEP at Malibu High School, a small comprehensive campus with approximately 1,000 students; and the Help Group and Beach Cities Learning Center, both nonpublic schools.

13. During the meeting, O School staff reported Student was performing well academically, socially, and emotionally. Academically, he was getting all "A's" and "B's" and was completing grade level work. Socially and emotionally, he still displayed anxiety with respect to peer relationships, self-esteem, and academic performance, but had shown improvements in leadership skills and positive behaviors when working with peers. Mother did not have any concerns regarding Student except him repeating past behaviors. Father was concerned about Student's transition from O School to the home environment. O School staff recommended continued family therapy and stressed the need for Student to receive positive reinforcement. All team members agreed Student required support to successfully transition back to a Santa Monica-Malibu placement.

14. The team drafted five annual goals: two social/emotional and three transition goals. The first social/emotional goal addressed Student's ability to choose effective behavior when put in the context of his personal values. The goal involved him being able to discuss, during counseling, how his long-term values influenced his behavior. The second social/emotional goal addressed the social anxiety Student felt before interacting with peers. The goal involved him describing, during counseling, five effective versus ineffective behaviors to manage his anxiety regarding school activities and peer interactions. The first transition goal related to the individualized transition plan the team drafted and involved Student researching four possible careers. The second and third transition goals related to Student's transition back to a Santa Monica-Malibu placement. The second transition goal addressed the anxiety Student exhibited over academic assignments that did not always match the teacher's perception of how he was performing. The goal involved Student advocating for himself by independently requesting accommodations and check-ins with his teachers. The third transition goal addressed Student's difficulty remaining on-task for more than 15 minutes before becoming distracted. The goal involved Student remaining on task for 30 minutes, with no more than one prompt. All goals addressed Student's demonstrated areas of need and were measureable. The team did not draft any academic goals because Student did not have any identified academic needs.

15. All team members agreed Student was ready to transition from the O School and into a less restrictive setting. The team, including Parents and Student, engaged in a discussion regarding placement options, including general education, specialized academic instruction, STEP, positive behavior support, nonpublic schools, and residential treatment centers. Ms. Hurst and Ms. O'Connor recommended STEP at Malibu High School because they believed the program offered more flexibility and therapeutic support than the nonpublic school options. Mother expressed concern

about Student returning to STEP because it was ineffective in seventh grade. Additionally, Mother wanted Student to participate in general education classes. Ms. Hurst explained how STEP supported students in general education. Student expressed a desire to visit Malibu High School.

16. Santa Monica-Malibu began STEP at Malibu High School during the 2014-2015 school year. The purpose of the program was to focus on students with internalizing behaviors, such as depression, anxiety, and school avoidance. The class size fluctuated between five and 10 students who were taking a combination of general education and STEP classes depending on their individual needs. When in the STEP classroom, students worked independently on assignments from general education classes or utilized Apex, a computer-based learning program that offered grade level academic instruction in a variety of subjects, including all core academic subjects. If students required additional adult support, the STEP teacher, Craig Chavez, and a paraeducator were available to provide clarification or teaching on a white board. Students in the program attended a tutorial class with Mr. Chavez at least once a day to develop study skills and complete work from other classes. Students could also come to the STEP classroom, as needed, to decompress before returning to their general education classroom.

17. STEP included several embedded supports to address students' social/emotional and academic needs. There was either a mental health counselor or an educationally related intensive counseling therapist at the school site four days a week to support the students' academics from a therapeutic standpoint and for crisis intervention. The counselor and therapist shared an office, which was located near the STEP classroom. The STEP classroom included a paraeducator to support the teacher and students. Paraeducators were also present in the general education classes to support the STEP students. The paraeducators working with STEP were Santa Monica-

Malibu's highest trained paraeducators and were specifically trained in behavior interventions. Mr. Chavez consulted with the general education teachers regularly, sometimes on a daily basis. Mr. Chavez also consulted with the STEP mental health counselor Will Sessions, the educationally related intensive counseling therapist Angela Smith, and school psychologist Juliette Boewe, on a weekly basis to discuss the progress of the students in the program.

18. Santa Monica-Malibu's offer of FAPE through January 15, 2016, Student's scheduled departure from the O School, was 1535 minutes a week of specialized academic instruction, 90 minutes a week of individual counseling, 60 minutes a week of group counseling, 60 minutes a week of family counseling, and 240 minutes a month of case management by Santa Monica-Malibu's assigned mental health case manager. Santa Monica-Malibu's offer of FAPE from January 16, 2016, through December 1, 2016, was placement at Malibu High School, 1040 minutes of specialized academic instruction with support from STEP for four classes, 60 minutes a week of individual and/or group school-based counseling, 60 minutes a week of individual educationally related intensive counseling, and transportation.

19. Santa Monica-Malibu also offered several supports, including reduced/shortened assignments; note taking support; preferential seating; staff check-in during social interactions outside of class; extended time to complete assignments; 30 minutes a month of consultation between the family, Student, and STEP mental health counselor; and 15 minutes a week of collaboration between the STEP teacher and Student's general education teachers to address Student's needs and progress.

20. Parents agreed to visit the recommended program at Malibu High School. After Mother visited Malibu High School, she consented to the IEP and did not express any disagreement about any of the IEP contents.

21. At hearing, Ms. O'Connor expressed her opinion regarding Santa Monica-Malibu's offer of FAPE in the IEP. She believed the annual goals in the IEP were appropriate to address Student's needs. Additionally, she was familiar with STEP teacher Mr. Chavez, and STEP school psychologist Ms. Boewe, and believed they could provide the appropriate mental health services to support Student.

22. Ms. Hurst served as the Santa Monica-Malibu's administrator at the December 2, 2015 IEP team meeting. At hearing, Ms. Hurst expressed her opinion that the Santa Monica-Malibu's offer of placement in STEP at Malibu High School with counseling services was appropriate because it provided the therapeutic support Student needed in a school setting. Ms. Hurst also believed Student's familiarity with the STEP mental health counselor Mr. Sessions, who was Student's seventh grade teacher, would help assist his transition back to a public school campus.

Student's Transition to Malibu High School

23. On January 7, 2016, Student visited Malibu High School. On January 8, 2016, Santa Monica-Malibu developed an amendment IEP to finalize Student's transition from the O School to Malibu High School. Parents and Santa Monica-Malibu agreed to change the offer of FAPE from the December 2, 2015 IEP team meeting, and instead of four STEP classes, enrolled Student in four general education classes in math, English, science, and freshman seminar.³ Student would have access to the STEP teacher and classroom, as needed, or when he felt overwhelmed in the general education setting. Student was to attend STEP classes for two periods a week for academic support. Santa Monica-Malibu's offer of FAPE was 260 minutes a week of specialized academic

³ Freshman Seminar is an interdisciplinary, yearlong course that blends the health curriculum with exposure to social and ethical issues while giving students writing instruction.

instruction in the STEP class, 60 minutes a week of individual educationally related intensive counseling services, and 60 minutes a week of individual and group school-based counseling. Mother consented to the IEP.

24. On January 19, 2016, Student began attending Malibu High School. He began the semester two weeks late due to his discharge schedule at the O School. Student was excited about attending Malibu High School and had a positive outlook going into the placement. However, he quickly began to struggle academically and had difficulty keeping up with the work in his general education classes. Student also struggled with consistent attendance. During his first month at Malibu High School, he was absent for 12 of 23 possible school days, including two consecutive full weeks in February 2016. Most of Student's absences were due to illness or school-related anxiety and refusal.

25. On February 22, 2016, Santa Monica-Malibu convened an IEP team meeting to discuss Student's placement and progress. The IEP team consisted of Mother, Father, Student, a Santa Monica-Malibu administrator, one of Student's general education teachers, Ms. Boewe, Mr. Sessions, Mr. Chavez, and Ms. Smith. Mr. Chavez reported Student was failing all classes, as a result of absences, lack of homework completion, and failing test scores. Mr. Chavez explained the benefits of the Apex program and that it would allow Student to work on grade level curriculum at his own pace. He also explained that since Apex was online, Student could access the program at home. Mother expressed the desire for Student to remain in general education classes and utilize the STEP tutorial class to catch up on missing assignments. Student expressed the desire to remain in general education classes so he could connect with friends. Ms. Boewe suggested a combination of STEP and general education classes. Ultimately, all team members agreed to increase Student's specialized academic instruction to 780 minutes a week, to include STEP classes for tutorial, science, and math. Mother consented to the IEP.

26. Mr. Chavez and Mother communicated via email weekly and sometimes daily regarding Student's progress and school attendance. Mother also communicated frequently via email with Mr. Sessions, Ms. Boewe, and Ms. Smith. Beginning in February 2016, Mr. Chavez informed Mother that Student was struggling academically in his general education classes and that Student's general education teachers reported Student was socializing in class instead of focusing on the lesson. Mr. Chavez kept Mother informed of assignments Student was missing and what Student needed to do in order to make-up class work. Mr. Chavez collaborated with Student's teachers to reduce the workload, collected Student's work each day, catalogued missing assignments, and helped Student complete unfinished classwork during the STEP tutorial class. According to Mr. Chavez, Student had too many missing assignments to complete at school so he stressed to Mother the importance of Student completing work at home.

27. Mother had difficulty getting Student to complete work at home. At hearing, Mother described Student's typical day after school as arriving home at 4:30 p.m.; relaxing with music or videos in his room; walking the dog or exercising for an hour beginning at 5:30 p.m.; eating dinner at 6:30 p.m.; watching a movie or talking on the phone with friends; taking a shower at 8:00 p.m.; and going to bed at 9:00 p.m. Student's after school schedule did not include a designated time to complete school assignments.

28. Mother also had difficulty getting Student to attend school regularly. On many occasions, Mother would drive Student to school, only to have him refuse to get out of the car; and in some instances, he became physically ill, including crying and vomiting. On more than one occasion, Mr. Chavez and Mr. Sessions asked Mother to contact one of them when Student refused to get out of the car so they could help

encourage Student to come into the school. For reasons that were not introduced into evidence or testified to at hearing, Mother did not use their assistance.

29. On April 26, 2016, Santa Monica-Malibu and Mother agreed to develop an amendment IEP to increase Student's specialized academic instruction to 1040 minutes a week and change his general education English class to the Apex program in the STEP class. At the time, Student was failing English and had not turned in any work other than what he had completed in the classroom. Santa Monica-Malibu team members indicated Student's lack of attendance had a major effect on his ability to pass the class, which resulted in increased anxiety as he fell further behind. Santa Monica-Malibu also alerted Mother that Student was failing his general education freshman seminar class but Mother decided it was beneficial for Student to remain in that class for the social interaction.

30. On May 31, 2016, Mr. Chavez emailed Mother and explained how Student's absences and failure to do homework were affecting his ability to catch up. Mr. Chavez further explained the importance of Student attending school in order to complete missing assignments and make-up tests, prepare for final exams, and complete a research paper for his freshman seminar class. In email responses to Mr. Chavez and at hearing, Mother seemed to downplay the impact Student's absences had on his academic performance.

31. At the conclusion of the 2015-2016 school year, Student had 24 full day absences out of a possible 91 school days, 17 additional single period absences, and 24 tardies/partial class absences. This means Student was absent for nearly 30 percent of the second semester of his ninth grade year.

2016-2017 SCHOOL YEAR: STUDENT'S ONGOING CHALLENGES AND UNILATERAL PRIVATE PLACEMENT

32. Student returned to Malibu High School for 10th grade during the 2016-2017 school year. Student's attendance issues continued from the start of the new school year. Student also continued to struggle academically and emotionally. He was not writing down his assignments and was not completing the work. Falling behind in class led to Student's increased anxiety, depression, and poor attendance. Student was aware he was missing a lot of school and failing classes but was unable to change his behavior. According to Mother, he would often stay in his room and not talk to anyone, or he would express negative thoughts about himself and his ability to succeed in the future.

33. Student's schedule consisted of English, geometry, and tutorial in the STEP class; and general education history, biology, and physical education. In early September 2016, Mother requested Student's schedule be changed to include general education English and Apex biology in the STEP class. Mr. Chavez, in consultation with Mr. Sessions and Ms. Boewe, emphasized to Mother the importance of having consistent expectations of Student, and giving him an opportunity to meet the expectations and make progress. Specifically, the Santa Monica-Malibu team did not want to waiver from the previous agreement they made with Mother and Student that Student could move into general education English during the second semester if he passed all of his general education classes, passed Apex English, and attended school 90 percent of the time. After a telephone conversation with Mr. Chavez and Mr. Sessions, Mother agreed to keep Student's schedule the same.

November 9, 2016 IEP Team Meeting

34. On November 9, 2016, Santa Monica-Malibu convened Student's annual IEP. The team consisted of Mother, Father, Mother's close friend, Ms. Boewe, Ms. Smith, Mr. Chavez, Mr. Sessions, Student's biology teacher, a school counselor, and the Malibu High School vice principal. At the time of the meeting, Student was failing all classes

except physical education, where he was receiving a "D." Santa Monica-Malibu team members indicated Student's lack of attendance and failure to turn in assignments was significantly affecting his grades. At the time of the meeting, he had 17 full day absences of a possible 55 school days, 16 additional single period absences, and 19 tardies. This means Student was absent for at least 30 percent of the first three months of 10th grade.

35. The team reviewed Student's present levels of performance. Student's intensive counseling therapist Ms. Smith, witnessed Student struggling to balance the desire to be in general education classes with his poor performance in those classes. While Student was optimistic and modeled great problem solving skills during counseling sessions with Ms. Smith, he did not take ownership of his school attendance or poor performance, and did not show signs of changing his behavior. Student blamed his lack of attendance and poor performance on emotional turmoil he felt with respect to peer relationships at school. Student became emotionally overwhelmed and avoided the discussion when school staff or Mother challenged him regarding his responsibilities and expectations.

36. Student's school-based counselor Mr. Sessions, saw similar avoidance behaviors during his counseling sessions with Student. Mr. Sessions indicated that when given space away from a stressful event, Student could recognize how his emotions and thoughts influenced his behavior and could problem solve to identify different and preferred outcomes. However, the ability for Student to problem solve in the moment was still an emerging skill. Mr. Sessions believed Student tended towards behaviors such as refusal, procrastination, and escape, which led to feelings of discouragement and reduced self-esteem.

37. The team reviewed Student's previous annual goals. Student did not meet any of his three transition goals in career exploration, self-advocacy, and on-task

behavior due to excessive absences. Student met his social/emotional goal related to discussing how his long-term values influence his behavior, but did not meet the social/emotional goal related to being able to apply effective behavior strategies when he experienced anxiety. The team drafted nine new annual goals. There were three transition goals related to career exploration, college exploration, and attendance. The remaining six goals included self-advocacy, on-task behavior, organization skills/task completion, and three social/emotional goals.

38. The career exploration goal involved Student using web-based research tools to investigate three possible careers, including job requirements, skills, and salary ranges. The college exploration goal involved Student using web-based research tools to identify three, four year universities and the admission requirements to a four year university and community college. The attendance goal sought to increase Student's attendance from 68 percent to 90 percent, through a plan of communication between school staff and Mother.

39. The self-advocacy goal addressed Student's difficulty in asking for help and checking in with his general education teachers regarding assignments. The goal involved Student independently planning for assignment completion and advocating for extra support before an assignment was due. The on-task behavior goal addressed Student's need for teacher prompts in order to remain on task for up to 20 minutes. The goal involved Student remaining on task and working independently for 30 minutes without prompting. The organization skills/task completion goal addressed Student's failure to write down his assignments and involved Student writing down assigned tasks in an assignment book before the deadline, with the assistance of a homework management system.

40. The social/emotional goals included two goals to be addressed during Student's intensive counseling sessions and one goal to be addressed during his school-

based counseling sessions. The first intensive counseling goal addressed Student's inability to discuss personal responsibility; and involved him being able to role play scenarios about school refusal and lack of work production, and discussing shared responsibility in the scenarios. The second intensive counseling goal addressed Student's inability to process his social/emotional issues; and involved him being able to identify his underlying feelings related to school refusal and lack of task completion. The school-based counseling goal addressed Student's need to use coping strategies when faced with anxiety related to school or peer relationships; and involved him being able to report on at least four times in the previous week when he effectively used coping strategies to manage anxiety. All goals addressed Student's demonstrated areas of need and were measurable. Parents did not express any disagreement with the goals.

41. The IEP team had an in depth discussion about Student's poor school attendance. Mother expressed Student did not feel comfortable coming to school. Ms. Smith expressed concern that Mother was rewarding Student's school avoidant behavior when she allowed him to stay home. Mr. Sessions recommended completing a school refusal assessment to shed light on the functions of Student's school refusal and allow the team to take a more holistic approach on addressing the behavior. The assessment involved both Student and Mother answering questions on a rating scale that addressed the following areas: getting attention from a significant person in life; access to tangible rewards; avoiding negative feelings about school and peers; and avoiding being evaluated and tested.

42. Ms. Smith recommended referring Student for an intensive support services assessment to possibly have someone come into the home to help facilitate Student attending school. Intensive support services are a related service considered for students with severe social/emotional and behavioral challenges to increase access to the educational environment. At hearing, Ms. Boewe explained the IEP team considered

intensive support services as the next step in providing additional support to assist Student in coming to school. If Student qualified for services, the intention was to have a behavior specialist provide in-home counseling to Mother and Student regarding issues surrounding school attendance. Mother expressed concern about having someone come into the home and questioned whether the service would help.

43. Santa Monica-Malibu's offer of FAPE included continued placement at Malibu High School with 1040 minutes a week of specialized academic instruction in the STEP class for tutorial, math, science, and English; 60 minutes a week of school-based counseling; 60 minutes a week of educationally related intensive counseling; and 30 minutes a month of parent counseling. The IEP team also identified multiple supports to assist Student, including reduced/shortened assignments; note taking support; extended time on tests and to complete assignments; checking in with Student to review homework expectations; and the ability to access Apex coursework at home.

44. Mother indicated an interest in considering other school placements. The Santa Monica-Malibu team members recommended first implementing the new program with increased time in the STEP class and parent counseling; completing the recommended assessments; and then reconvening to review whether Student made progress or if his needs required placement in another program. Mother took the IEP document home to review and ultimately consented to the offered program with the exception of the intensive support services assessment.

45. On November 17, 2016, Mother consented to an assessment plan for Santa Monica-Malibu to conduct assessments of Student in the areas of intensive support services and social/emotional.

Private Psychiatric Services

46. In November 2016, Student began psychiatric services with Dr. Stuart Wolman. Dr. Wolman was a board certified adult and child psychiatrist who maintained

a private practice. Dr. Wolman did not conduct any psychological testing of Student but instead did a mental status exam, which involved interviewing Student and assessing his mental functioning, mood, and verbal skills. Dr. Wolman did not observe Student in a school setting. Dr. Wolman's diagnostic impression of Student was that he had a depressive disorder and severe anxiety. Dr. Wolman observed Student trying to deal with his feelings independently instead of seeking comfort from others, which resulted in poor coping skills. Dr. Wolman prescribed Student medication to treat his depression and anxiety. Dr. Wolman did not have any independent knowledge of Malibu High School or what services and supports Student received while attending there. Dr. Wolman did not participate in any of Student's IEP team meetings.

47. At hearing, Dr. Wolman expressed his opinion that Student felt overwhelmed at Malibu High School and did not have the necessary emotional support. Dr. Wolman further believed that a smaller school setting would allow the teachers to be available to intervene if Student needed academic or emotional support. Because of Dr. Wolman's lack of familiarity with Student's placement and services at Malibu High School, and the fact he had never observed Student in a school setting, his testimony regarding the appropriateness of Santa Monica-Malibu's offer of a FAPE was unpersuasive and given little weight.

Mother's Unilateral Placement at Arete Academy

48. Student's attendance continued to suffer after the November 9, 2016 IEP team meeting. On December 6, 2016, after Student missed six consecutive school days, Mr. Chavez emailed Mother to investigate the absences. Mother responded she had explained to Mr. Sessions the week before that Student would no longer be attending Malibu High School because Dr. Wolman concluded Student required a small school with personal attention. Mother said Student would complete the work for his classes on Apex at home. On December 8, 2016, Mother emailed Mr. Sessions and asked him to

complete paperwork for Student's application to Arete Academy, a private school.

49. On December 22, 2016, Mother emailed a letter to Ms. Boewe, notifying Santa Monica-Malibu of her intention to locate appropriate placement and services for Student and seek reimbursement from Santa Monica-Malibu. Santa Monica-Malibu immediately responded to Mother in a prior written notice also dated December 22, 2016. In the notice, Santa Monica-Malibu denied Mother's request to change Student's placement. Instead, Santa Monica-Malibu proposed to implement Student's November 9, 2016 IEP, and complete the intensive support services and school refusal assessments Mother consented to on November 17, 2016. The notice also addressed Mother's mention of Dr. Wolman's evaluation of Student and indicated the IEP team would consider the evaluation results at Student's next IEP team meeting if Mother provided Santa Monica-Malibu with a copy of the report. Finally, Santa Monica-Malibu included an IEP team meeting invitation for January 31, 2017, with the notice.

50. Student did not return to Malibu High School or any other Santa Monica-Malibu placement during the 2016-2017 school year. His last day attending Malibu High School was November 28, 2016. Student's final attendance record for the first semester included 42 full day absences of a possible 84 days, an additional 26 single period absences, and 21 tardies. This means Student was absent for at least 50 percent of the semester.

51. On January 13, 2017, Student began attending Arete Academy and was still attending there at the time of the hearing. Arete is a for-profit private school for students who have not thrived in a traditional public school. The class sizes ranged from five to nine students. Because Arete is a private school, teachers are not required to hold California teaching credentials. Teachers at Arete are responsible for developing their own class curriculum. Instruction is individualized for each student and includes hands on projects and learning through multiple modalities, such as discussion, online

resources, and text books. Tests and quizzes are not emphasized or heavily weighted, and instead of final exams, students complete a research project and present the project verbally to their peers. At the time of the hearing, Arete did not have a school psychologist, counselor, or any other mental health clinicians on staff.

52. Wendy Schapiro, a teacher at Arete, testified at hearing. Ms. Schapiro held a master's degree in education but did not hold a California teaching credential. Ms. Schapiro taught Student world history during the 2016-2017 school year, and English during the 2017-2018 school year. According to Ms. Schapiro, when Student first enrolled at Arete, his attendance was irregular and it took until March or April 2017 to establish trust with him. As he became more comfortable, he transitioned from being insecure to making connections with classmates and looking out for the well-being of others. Arete allowed him to have a reduced schedule and begin his day with a one-on-one session with the school's educational specialist. Ms. Schapiro was not familiar with Student's program at Malibu High School and had not attended any of his IEP team meetings.

53. Clark Brendon, Dean of Students at Arete, testified at hearing. Mr. Brendon began working at Arete in the admissions department. Mr. Brendon did not hold a college degree or have any specific training in education. In his role as Dean of Students, Mr. Brendon's responsibility was to know every student at Arete and build a relationship with each one of them. Mr. Brendon's office provided a respite for students when they were having a bad day or were having disciplinary issues. Mr. Brendon also communicated with parents about how students were doing academically and emotionally. According to Mr. Brendon, Arete offered Student a safe and supportive environment which over time, helped to build Student's confidence. Mr. Brendon interacted with Student two to three times a week. Mr. Brendon recalled that when Student first enrolled at Arete, he would shut down, but after several months, Student

was able to have a discussion regarding issues and explain how he dealt with whatever was bothering him. Mr. Brendon was not familiar with Student's program at Malibu High School and had not attended any of Student's IEP team meetings.

54. Krystina LeMorte was Arete's educational specialist. Ms. LeMorte supported Student in English and worked with Student individually for 30 minutes each morning, four days a week, on strategies related to time management, executive functioning, and peer relationships. Ms. LeMorte also helped Student build academic confidence, which positively affected his emotional well-being. Ms. LeMorte did not testify at hearing. Neither Ms. Schapiro nor Mr. Brendon knew whether Ms. LeMorte held a California special education credential.

55. Because Ms. Schapiro and Mr. Brendon were not familiar with Student's program at Malibu High School and had never attended any of Student's IEP team meetings, their testimony regarding the appropriateness of Santa Monica-Malibu's offer of FAPE was unpersuasive and given little weight.

June 6, 2017 IEP Team Meeting

56. On June 6, 2017, Santa Monica-Malibu convened an amendment IEP team meeting to discuss Student's special education placement and services. The IEP team consisted of Mother, Mother's close friend, Ms. Smith, Mr. Chavez, Mr. Sessions, Santa Monica-Malibu special education coordinator Kris Vegas, a Malibu High School general education teacher, Ms. LeMorte, and Arete's Head of School Jim Hahn.

57. Arete team members shared Student's improvements since enrolling at Arete. His teacher relationships and participation in class had increased. He showed improved on-task behavior but still required prompting. With respect to self-advocacy, he checked in with teachers and asked for help more often. Student was receiving all "A's" and "B's" with the exception of English where he was receiving a "C-." Student had also shown significant progress in peer relationships and considering perspectives of

others. He was also “great” at admitting when he had done something wrong. Arete’s main concern was Student’s social/emotional functioning and ability to apply coping skills to manage anxiety. At the time of the IEP team meeting, Student had 12 absences of a possible 80 school days, or he was absent approximately 15 percent of the time. Arete was not implementing Student’s IEP.

58. The IEP team reviewed the placement and services offered in Student’s November 9, 2016 IEP. The team did not address Student’s annual goals during this meeting. Mr. Vegas asked Mother if she was willing to consider intensive support services. Mother declined. Santa Monica-Malibu team members acknowledged Student appeared to make progress in a smaller school setting, which led the team to discuss nonpublic school as a placement option. Mr. Chavez believed a nonpublic school would be appropriate since it offered a smaller therapeutic setting. Mother expressed her desire for Student to remain at Arete. Mr. Vegas explained that Arete did not offer therapeutic services and that Santa Monica-Malibu was unable to fund placement at a private school. Mr. Vegas suggested Beach Cities Learning Center or the Help Group as possible nonpublic school options. Mother expressed disagreement with Beach Cities because her independent research revealed a significant population of students at Beach Cities had behavioral issues. Mr. Vegas acknowledged Mother’s disagreement and offered the Help Group instead. Mr. Vegas asked Mother to sign a release of information form so Santa Monica-Malibu could share information with the Help Group. Mother’s close friend indicated they would get back to the IEP team with a response.

59. Santa Monica-Malibu’s offer of FAPE was placement in a nonpublic school with 1800 minutes a week of specialized academic instruction, 60 minutes a week of individual school-based counseling, 60 minutes a week of individual educationally related intensive counseling, and 30 minutes a month of parent counseling. Mother never consented to the IEP.

60. At hearing, Mother testified Santa Monica-Malibu did not provide her with a copy of the June 6, 2017 IEP. However, there was no other corroborating evidence to support Mother's testimony, either through documentary evidence or witness testimony. Therefore, Mother's testimony specific to not receiving a copy of the IEP was unpersuasive and given little weight.

STUDENT'S OVERALL PERFORMANCE AT MALIBU HIGH SCHOOL

61. Upon enrollment at Malibu High School, Student had the skills and capability to complete grade level work. He appeared to be in a healthy place emotionally and demonstrated a positive outlook towards transitioning back home and to a less restrictive school setting. Santa Monica-Malibu put appropriate academic and therapeutic supports in place to assist Student's transition from a residential treatment center. Despite Santa Monica-Malibu's efforts, Student's academic performance suffered as a result of his inconsistent attendance. Student's frequent absences led to him falling behind in the assigned coursework. As work continued to accumulate, Student felt overwhelmed. This led to increased anxiety, depression, and continued school refusal. Student's biggest barrier to social/emotional progress was his inability to take ownership of his actions. Another barrier to Student's progress was Mother's inability or unwillingness to hold Student accountable for following through with attendance and academic expectations. These findings were supported by the testimony of Mother, Mr. Chavez, Mr. Sessions, and Ms. Smith; as well as the documentary evidence.

LEGAL AUTHORITY AND CONCLUSIONS

INTRODUCTION – LEGAL FRAMEWORK UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT⁴

1. This hearing was held under the IDEA, its regulations, and California statutes and regulations intended to implement the IDEA and its regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 et seq. (2006)⁵; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are: (1) to ensure that 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 (2) to ensure that the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

2. A FAPE means special education and related services that are available to an eligible child at no charge to the parent or guardian, meet state educational standards, and conform to the child's IEP. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) "Special education" is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(29); 34 C.F.R. § 300.39; Ed. Code, § 56031.) "Related services" are transportation and other developmental, corrective and supportive services that are required to assist the child in benefiting from special education. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a).) In general, an IEP is a written statement for each child with a disability that is developed under the IDEA's procedures

⁴ The legal citations in this Introduction are incorporated by reference into the analysis of the issue discussed below.

⁵ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise stated.

with the participation of parents and school personnel, that describes the child's needs, academic and functional goals related to those needs, and specifies the special education, related services, and program modifications and accommodations that will be provided for the child to advance in attaining the goals, make progress in the general education curriculum, and participate in education with disabled and non-disabled peers. (20 U.S.C. §§ 1401(14), 1414(d)(1)(A); Ed. Code, §§ 56032, 56345, subd. (a).)

3. In *Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201 [102 S.Ct. 3034, 73 L.Ed.2d 690], the Supreme Court held that "the 'basic floor of opportunity' provided by the [IDEA] consists of access to specialized instruction and related services which are individually designed to provide educational benefit to" a child with special needs. *Rowley* expressly rejected an interpretation of the IDEA that would require a school district to "maximize the potential" of each special needs child "commensurate with the opportunity provided" to typically developing peers. (*Id.* at p. 200.) Instead, *Rowley* interpreted the FAPE requirement of the IDEA as being met when a child receives access to an education that is reasonably calculated to "confer some educational benefit" upon the child. (*Id.* at pp. 200, 203-204.)

4. The Supreme Court clarified the *Rowley* standard in *Endrew F. v. Douglas County School Dist.* (2017) 580 U.S. ____ [137 S. Ct. 988]. *Endrew* provided that an IEP must be reasonably calculated to enable "progress appropriate in light of the child's circumstances." (137 S.Ct. at p. 999.) The Court recognized that this required crafting an IEP that required a prospective judgment, and that judicial review of an IEP must recognize that the question is whether the IEP was reasonable, not whether the court regards it as ideal. (*Ibid.*) Additionally, the Court stated, "for a child fully integrated in the regular classroom, an IEP typically should, as *Rowley* put it, 'be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.'" (*Ibid.*)

5. 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, evaluation, 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, 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. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

6. At the hearing, the party filing the complaint has the burden of persuasion by a preponderance of the evidence. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387]; see 20 U.S.C. § 1415(i)(2)(C)(iii) [standard of review for IDEA administrative hearing decisions is preponderance of the evidence].) Here, Student is the petitioning party and had the burden of proof on all issues in the case.

FAPE ANALYSIS

7. There are two parts to the legal analysis of a school district's compliance with the IDEA. First, the tribunal must determine whether the district has complied with the procedures set forth in the IDEA. (*Rowley, supra*, 458 U.S. at pp. 206-207.) Second, the tribunal must decide whether the IEP developed through those procedures was designed to meet the child's unique needs, and was reasonably calculated to enable the child to receive educational benefit. (*Ibid.*)

8. Procedural flaws do not automatically require a finding of a denial of a FAPE. (*W.G., et al. v. Board of Trustees of Target Range School Dist., etc.* (9th Cir. 1992) 960 F.2d 1479,1484, superseded by statute on other grounds by IDEA Amendments of 1997.) A procedural violation only constitutes a denial of FAPE if the violation (1) impeded the child's right to a FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the

child; or (3) caused a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2).)

9. In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (See *Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) A school district is not required to place a student in a program preferred by a parent, even if that program will result in greater educational benefit to the student. (*Ibid.*) For a school district's offer of special education services to a student to constitute a FAPE under the IDEA, a school district's offer of educational services and/or placement must be designed to meet the student's unique needs, comport with the student's IEP, and be reasonably calculated to provide the student with some educational benefit in the least restrictive environment. (*Ibid.*)

10. An IEP is evaluated in light of information available to the IEP team at the time it was developed; it is not judged exclusively in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149.) "An IEP is a snapshot, not a retrospective." (*Ibid.*) It must be evaluated in terms of what was objectively reasonable when the IEP was developed. (*Ibid.*)

ISSUES 1(A), 3(A), AND 4(C): DID SANTA MONICA-MALIBU OFFER APPROPRIATE GOALS AT THE DECEMBER 2, 2015, NOVEMBER 9, 2016, AND JUNE 6, 2017 IEP TEAM MEETINGS?

11. Student contended Santa Monica-Malibu failed to offer appropriate goals at the December 2, 2015, November 9, 2016, and June 6, 2017 IEP team meetings. Student did not make any specific contentions as to which goals were inappropriate and for what reasons. Santa Monica-Malibu contended all goals developed at the respective IEP team meetings were appropriate.

Legal Authority - Goal Development

12. An annual IEP must contain a statement of measurable academic and functional annual goals, designed to: (1) meet the child's needs that result from a disability to enable the child to be involved in and make progress in the general curriculum; and (2) meet each of the child's other educational needs that result from a disability. (20 U.S.C. § 414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2)(i); Ed. Code, § 56345, subd. (a)(2).) Annual goals are statements that describe what a child with a disability can reasonably be expected to accomplish within a 12-month period in the child's special education program. (Letter to Butler, 213 IDELR 118 (OSERS 1988); Notice of Interpretation, Appendix A to 34 C.F.R., part 300, Question 4 (1999 regulations).)

Analysis

13. Student did not meet his burden of proving the goals developed at the December 2, 2015, November 9, 2016, and June 6, 2017 IEP team meetings were inappropriate.

December 2, 2015 IEP

14. Parents, Santa Monica-Malibu, and O School staff collaborated to develop the annual goals at the December 2, 2015 IEP team meeting. Student's academic and functional needs were determined through Santa Monica-Malibu's November 2015 comprehensive psychoeducational evaluation, which included input from Student, Parents, and O School staff; as well as additional input provided by all members of the IEP team during the meeting.

15. Santa Monica-Malibu's psychoeducational evaluation revealed Student continued to meet the eligibility criteria of emotional disturbance. To address Student's needs, Ms. O'Connor made several recommendations, including cognitive behavioral strategies, setting clear boundaries, and reminding Student of making choices

consistent with his values. During the IEP team meeting, O School staff reported Student was performing well academically, socially, and emotionally; but indicated he still displayed anxiety with respect to peer relationships, self-esteem, and academic performance. The team also agreed Student required support to successfully transition back to a Santa Monica-Malibu placement.

16. The IEP included five appropriate and measurable goals to address Student's social/emotional and transition needs. The goals addressed Student's needs related to choosing effective behavior, managing anxiety when interacting with peers and teachers, remaining on task, and planning for his postsecondary transition. The team did not draft any academic goals because Student did not have any identified academic needs.

17. Based on the documentary evidence and testimony presented at hearing, the IEP team developed annual goals in all areas of Student's demonstrated needs. All IEP team members had input on developing the goals. The goals were measureable. Thus, the annual goals in the December 2, 2015 IEP were appropriate and Student did not prevail on this issue.

November 9, 2016 IEP

18. By the time the November 9, 2016 annual IEP team meeting took place, Student had attended Malibu High School for several months. Over the course of Student's attendance, Santa Monica-Malibu staff had the opportunity to become more aware of Student's academic and social/emotional needs. Parents also had the opportunity to observe how Student's transition back to a Santa Monica-Malibu placement was progressing. At the time of the meeting, Student was failing all academic classes. Santa Monica-Malibu team members indicated Student's lack of attendance and failure to turn in assignments was significantly affecting his grades.

19. Student's intensive counseling therapist Ms. Smith, and Student's school-based counselor Mr. Sessions, both witnessed Student struggling with avoidance behaviors with respect to taking ownership of his school attendance and poor performance. Student reported emotional turmoil with respect to peer relationships and had difficulty problem solving in the moment. Mr. Sessions believed Student tended towards behaviors such as refusal, procrastination, and escape, which led to feelings of discouragement and reduced self-esteem.

20. The team reviewed Student's previous annual goals and drafted nine annual goals. The team maintained goals Student needed to continue working towards, and developed new goals in additional areas of identified need. The goals were appropriate, measureable, and met Student's needs in the areas of postsecondary transition, self-advocacy, remaining on task, attendance, organization skills, accepting responsibility for his actions, discussing feelings of anxiety, and being able to use coping strategies to combat anxiety.

21. Based on the documentary evidence and testimony presented at hearing, the IEP team developed annual goals in all areas of Student's demonstrated needs. All IEP team members had input on developing the goals. All goals were measureable. Thus, the annual goals in the November 9, 2016 IEP were appropriate and Student did not prevail on this issue.

June 6, 2017 IEP

22. The June 6, 2017 IEP team meeting was an amendment to the November 9, 2016 IEP. The purpose of the meeting was to discuss Student's special education placement and services. The team did not address Student's annual goals during this meeting. At the time of the meeting, Student was attending Arete and his goals were not being implemented.

23. There was nothing in the documentary evidence or testimony presented at hearing to prove that Santa Monica-Malibu should have developed IEP goals during the June 6, 2017 IEP team meeting. Thus, Student did not prevail on this issue.

ISSUES 1(B), 2, 3(B), AND 4(D): DID SANTA MONICA-MALIBU OFFER APPROPRIATE SERVICES IN THE AREAS OF COUNSELING, SOCIAL/EMOTIONAL SUPPORT, AND ACADEMICS AT THE DECEMBER 2, 2015, JANUARY 8, 2016, NOVEMBER 9, 2016, AND JUNE 6, 2017 IEP TEAM MEETINGS?

24. Student contended Santa Monica-Malibu did not provide adequate counseling, social/emotional support, or academic services to allow Student to succeed at Malibu High School or any other Santa Monica-Malibu placement. Student also contended Santa Monica-Malibu did not implement the support services identified in Student's IEP. Santa Monica-Malibu contended it offered Student a FAPE, including an appropriate level of services in the areas of counseling and social/emotional support, to address his needs and for Student to receive educational benefit.

Legal Authority-Related Services and Supports

25. Related services, when needed, are determined by the IEP. (Cal. Code Regs., tit. 5, § 3051, sub. (a)(2).) The IEP must show a direct relationship between the present levels of performance, the goals, and the specific educational services to be provided. (Cal. Code Regs., tit. 5, § 3040, subd. (b).) The IEP must also include a statement of the program modifications or supports for school personnel that will be provided to the student to allow the student to advance appropriately toward attaining the annual goals, to be involved and make progress in the general education curriculum, and to participate in extracurricular activities and other nonacademic activities. (34 C.F.R. § 300.320(a)(4)(i), (ii); Ed. Code, § 56345, subds. (a)(4)(A), (B).)

Analysis

26. Student did not meet his burden of proving Santa Monica-Malibu offered inappropriate services in the areas of counseling, social/emotional support, and academics at the December 2, 2015, January 8, 2016, November 9, 2016, and June 6, 2017 IEP team meetings.

December 2, 2015 IEP

27. During the December 2, 2015 IEP team meeting, Santa Monica-Malibu made two offers of FAPE: one for the remainder of Student's time at the O School, and another for when he transitioned back to a Santa Monica-Malibu placement. Both offers of services and supports were based on Student's present levels of performance, as revealed in Santa Monica-Malibu's November 2015 psychoeducational evaluation and input from Parents and O School staff. Student had a history of anxiety, depression, and school-related phobia. The offered specialized academic instruction, counseling services, and other supports were specifically designed to address those needs. Moreover, the offered supports and services supported the social/emotional, on-task behavior, and self-advocacy annual goals the IEP team developed. As discussed in *Rowley*, school districts are not required to provide every special service to maximize a student's potential. Instead, school districts need only to provide services reasonably calculated to confer some educational benefit upon the child. The evidence supported a finding that Santa Monica-Malibu satisfied this requirement.

28. The IEP team based its offer of counseling, social/emotional support, and academic services on the information it had when the December 2, 2015 IEP was developed. All team members had input on the offered services and supports. Parents did not request any additional services or supports. Student also did not introduce any documentary evidence or testimony at hearing to support a finding that the offered services and supports were inappropriate. Finally, the offered services and supports were

designed to meet Student's unique needs as identified through his present levels of performance; as well as, to support his annual goals. Thus, Santa Monica-Malibu offered appropriate services in the December 2, 2015 IEP, and Student did not prevail on this issue.

January 8, 2016 IEP

29. The January 8, 2016 IEP was an amendment to the December 2, 2015 IEP, to finalize Student's transition from the O School to Malibu High School. Parents and Santa Monica-Malibu agreed to change the offer of FAPE from the December 2, 2015 IEP team meeting, and instead of Student having four STEP classes, Student was to be enrolled in four general education classes for math, English, science, and freshman seminar. No other changes were made from the December 2, 2015 IEP.

30. Santa Monica-Malibu's offered services in counseling, social/emotional support, and academics at the January 8, 2016 IEP were appropriate for the same reasons stated in the analysis regarding Santa Monica-Malibu's offered services in the December 2, 2015 IEP. Moreover, Mother was in favor of Student spending more time in general education and decreasing the amount of specialized academic instruction. Thus, Student did not prevail on this issue.

November 9, 2016 IEP

31. When the November 9, 2016 IEP team meeting occurred, the Santa Monica-Malibu team members believed attendance was one of Student's biggest challenges affecting academic performance. In response to this concern, Santa Monica-Malibu offered to conduct a school refusal assessment to shed light on the functions of Student's school refusal. Santa Monica-Malibu also offered to conduct an intensive support services assessment to explore the possibility of someone coming into the home to help facilitate Student attending school. Santa Monica-Malibu considered

intensive support services as the next step in providing additional support to assist Student in coming to school. Additionally, in an attempt to further assist Mother in getting Student to school, Santa Monica-Malibu offered parent counseling.

32. Santa Monica-Malibu's offer of FAPE, including continued placement at Malibu High School with 1040 minutes a week of specialized academic instruction in the STEP class, counseling, and other supports was appropriate. During the 2015-2016 school year, the IEP team progressively increased Student's specialized academic instruction. At the February 22, 2016 amendment IEP team meeting, Student's specialized academic instruction increased from 260 minutes a week, to 780 minutes a week. At the April 26, 2016 amendment IEP team meeting, the IEP team again increased Student's specialized academic instruction to 1040 minutes a week. Santa Monica-Malibu continued to recommend this increased amount of specialized academic instruction at the November 9, 2016 IEP.

33. The offer of services and supports in the November 9, 2016 IEP were based on Student's present levels of performance, as revealed through his academic performance, attendance struggles, and social/emotional progress since enrolling at Malibu High School in January 2016. The IEP team had the benefit of getting to know Student, which helped determine what his areas of need were. At this meeting, the Santa Monica-Malibu team members believed Student would benefit from additional services, which prompted their offer to conduct the school refusal and intensive support services assessments. Although Mother signed an assessment plan for these assessments on November 17, 2016, Mother placed Student at Arete before the assessments could be completed.

34. The Santa Monica-Malibu IEP team members also believed Student would benefit from Mother receiving parent counseling, to further assist her in getting Student to school. Moreover, Santa Monica-Malibu's offer of counseling for Student and the

other offered supports were specifically designed to address Student's demonstrated needs. Similarly, the offered supports and services supported Student's social/emotional, on-task behavior, self-advocacy, attendance, and organization skills/task completion goals.

35. Santa Monica-Malibu's offered services and supports at the November 9, 2016 IEP team meeting were adequate and reasonably calculated to provide Student with educational benefit. Santa Monica-Malibu based its offer of counseling, social/emotional support, and academic services on the information it had when the IEP was developed. All team members had input on the offered services and supports. Parents did not request any additional services or supports.⁶ Student also did not introduce any documentary evidence or testimony at hearing to support a finding that the offered services and supports were inappropriate. Finally, the offered services and supports were designed to meet Student's needs as identified through his present levels of performance; as well as, to support his annual goals. Thus, Santa Monica-Malibu offered appropriate services in the November 9, 2016 IEP, and Student did not prevail on this issue.

June 6, 2017 IEP

36. At the time of the June 6, 2017 amendment IEP team meeting, Student had been attending Arete for one semester. The purpose of the meeting was to discuss Student's special education placement and services. Arete team members shared Student had shown improvements academically, socially, and emotionally since enrolling. He showed improved on-task behavior but still required prompting. Arete's main concern was Student's social/emotional functioning and ability to apply coping

⁶ During the meeting, Mother requested to explore other school placement options, which will be addressed in the analysis of a separate issue below.

skills to manage anxiety. Student's attendance had improved but was still an issue.

37. The IEP team reviewed the placement and services offered in Student's November 9, 2016 IEP. Based on the progress Student made at Arete, Santa Monica-Malibu offered nonpublic school as a placement option. Specifically, Santa Monica-Malibu offered placement at the Help Group with specialized academic instruction, school-based and intensive counseling for Student, and parent counseling. Santa Monica-Malibu continued to offer the intensive support services assessment, but Mother declined.

38. Santa Monica-Malibu based its offer of counseling, social/emotional support, and academic services on the information it had when the June 6, 2017 IEP was developed. Student had not attended a Santa Monica-Malibu placement in approximately six months. As such, Santa Monica-Malibu relied upon Student's present levels as reported by the Arete representatives and Mother. Santa Monica-Malibu acknowledged Student's progress in a smaller school setting and offered a placement where Student's specialized academic instruction, counseling services, and other supports could be implemented. Arete was not and could not implement Student's IEP because they did not have staff qualified to do so. Santa Monica-Malibu's offered services and supports at the June 6, 2017 IEP were designed to meet Student's needs and reasonably calculated to provide the student with some educational benefit. Thus, Santa Monica-Malibu offered appropriate services in the June 6, 2017 IEP, and Student did not prevail on this issue.

ISSUES 1(C) AND 3(C): DID SANTA MONICA-MALIBU OFFER STUDENT AN APPROPRIATE PLACEMENT AT THE DECEMBER 2, 2015 AND NOVEMBER 9, 2016 IEP TEAM MEETINGS?

39. Student contended Santa Monica-Malibu's offer of STEP at Malibu High School was not appropriate for Student and did not meet his needs. Further, Student

contended Malibu High School did not offer a small, therapeutic setting as required in Student's IEP; the STEP teacher did not support Student's placement in general education classes; and the Apex program was punitive and socially isolated Student from his general education peers.

40. Santa Monica-Malibu contended it offered Student a FAPE in the least restrictive environment and offered placement and services based on Student's unique needs, and where Student's goals and services could be implemented.

Legal Authority-Placement

41. Placement is that unique combination of facilities, personnel, location or equipment necessary to provide instructional services. (Cal. Code Regs., tit. 5, § 3042, subd. (a).) School districts must ensure a continuum of program options are available to meet the needs of special education students. (Ed. Code, § 56360.) The program options must include, but are not limited to: (1) regular education programs, (2) a resource specialist program, (3) designated instruction and services, (4) special classes, and (5) nonpublic, nonsectarian school services. (Ed. Code, § 56361.)

42. Placement must be in the least restrictive environment, which means that school districts must ensure, to the maximum extent appropriate, that children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature and the severity of the disability of the child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); Ed. Code, § 56031; 34 C.F.R. § 300.114(a).)

Analysis

43. Student did not meet his burden of proving Santa Monica-Malibu's placement offer at the December 2, 2015 and November 9, 2016 IEP team meetings was inappropriate.

December 2, 2015 IEP

44. As explained above, Santa Monica-Malibu offered Student appropriate goals and services in the areas of counseling, social/emotional support, and academics at the December 2, 2015 IEP team meeting. With respect to placement, Santa Monica-Malibu took great care in considering the continuum of program options for Student's transition back home. Santa Monica-Malibu's November 2015 psychoeducational evaluation revealed that Student made great progress and was no longer exhibiting significant symptoms of depression, anxiety, or school phobia. On the Behavior Assessment Scale for Children, Mother did not identify any areas as at risk or significant; and Student's responses revealed a positive self-image. The results of the Revised Children's Manifest Anxiety Scale indicated Student's anxiety levels were no more problematic than for most students. Student also scored in the typical range on the Children's Depression Inventory. Additionally, Student's therapists and teachers rated him as having average executive function skills, including emotional regulation, attention, planning, and organization. In sum, Student's test results revealed, and all IEP team members agreed, he was ready to transition from the O School into a less restrictive school environment.

45. Prior to the IEP team meeting, Ms. O'Connor met separately with Mother and Father to discuss the assessment results and placement options for Student once he returned to California. During the IEP team meeting, the team discussed general education classes, specialized academic instruction, the positive behavior support program, STEP, nonpublic schools, and residential treatment centers. Santa Monica-

Malibu's team members recommended STEP at Malibu High School because they believed the program offered more flexibility and therapeutic support than nonpublic schools. Mother also expressed the desire to have Student attend general education classes, which would have not been possible at a nonpublic school.

46. Santa Monica-Malibu's offer of FAPE including placement at Malibu High School with specialized academic instruction in the STEP class, counseling services, and other supports was appropriate. STEP was designed for students with internalizing behaviors, such as depression, anxiety, and school avoidance. Student had a history of exhibiting these behaviors. The class size was small. Students were able to take a combination of general education and STEP classes depending on their individual needs. Students were also able to utilize Apex, which allowed them to access grade level instruction at their own pace and at home. STEP also offered a therapeutic component by having both a school-based mental health counselor and an educationally related intensive counseling therapist on site four days a week. Finally, Mr. Chavez was available to support Student and to consult with Student's general education teachers and therapists to monitor his progress at school.

47. Student did not introduce any persuasive documentary evidence or witness testimony to support a finding that Santa Monica-Malibu's placement offer at the December 2, 2015 was inappropriate. There was no indication in the IEP document that any team members expressed disagreement with Santa Monica-Malibu's offer, including Parents and O School staff. To the contrary, Ms. O'Connor and Ms. Hurst testified credibly that STEP at Malibu High School was appropriate for Student; and their testimony was supported by documentary evidence and testimony from other Santa Monica-Malibu witnesses. Placement at Malibu High School gave Student the opportunity to interact with typically developing peers and participate in general education classes. Moreover, Mother testified that she agreed with all components of

the December 2, 2015 IEP. Thus, Santa Monica-Malibu's placement offer at the December 2, 2015 IEP team meeting was appropriate and Student did not prevail on this issue.

November 9, 2016 IEP

48. As explained above, Santa Monica-Malibu offered Student appropriate goals and services in the areas of counseling, social/emotional support, and academics at the November 9, 2016 IEP team meeting. With respect to placement, Student's special education program had been reviewed in two separate IEP team meetings leading up to the November 9, 2016 meeting. At the February 22, 2016 amendment IEP team meeting, the team agreed to increase Student's specialized academic instruction from 260 minutes a week, to 780 minutes a week. At the April 26, 2016 amendment IEP team meeting, the team agreed to increase Student's specialized academic instruction to 1040 minutes a week. The team made these recommendations because Student was failing several general education classes and needed additional academic support. Utilizing Apex in the STEP class allowed Student to work at his own pace without any anxiety-inducing demands from a general education class.

49. The evidence did not support Mother's contention that Student's poor performance was the result of Mr. Chavez and other staff members' failure to support Student. Mother seemed to downplay the severe impact Student's lack of attendance had on his ability to perform well academically. At the conclusion of the 2015-2016 school year, Student had been absent for 24 of 91 full school days, or nearly 30 percent of the semester. At the time of the November 9, 2016 IEP team meeting, Student had been absent for 17 of 55 full school days, or 30 percent of the first three months. Sometimes Student missed days and weeks at a time. In countless emails exchanged between Mother and Mr. Chavez, Mr. Chavez explained the impact Student's absences had on both his academic performance and self-esteem. Mr. Chavez's emails

demonstrated his attempts to support Student but emphasized that Mother and Student also needed to play a role in ensuring Student attended school regularly and completed work at home. Additionally, both Mr. Chavez and Mr. Sessions asked Mother to call them when she needed support to get Student to school; but Mother did not.

50. Acknowledging Student required further intervention to be successful at school, Santa Monica-Malibu offered additional assessments and services at the November 9, 2016 IEP team meeting. To address Student's habitual absences, Santa Monica-Malibu offered to conduct school refusal and intensive support services assessments. The school refusal assessment was designed to take a closer look at why Student was refusing to attend school. The intensive support services assessment would determine whether Student required services from a behavior specialist who would come into the home and assist Student in getting to school. Santa Monica-Malibu also offered parent counseling to further support Mother's efforts in getting Student to attend school.

51. In response to Mother's request to look into other school placements, Santa Monica-Malibu recommended first implementing the new program with increased time in the STEP class and parent counseling, completing the assessments, and then reconvening to review whether Student required a different program. Santa Monica-Malibu's refusal to acquiesce to Mother's request for a different placement, did not constitute a denial of FAPE. As stated in *Gregory K, supra*, a school district is not required to place a student in a program preferred by a parent. Santa Monica-Malibu's decision to offer continued placement in STEP with counseling services and other supports, along with the recommended assessments and parent counseling, was designed to meet Student's social/emotional and academic needs; and the program was reasonably calculated to provide educational benefit in the least restrictive environment. Thus, Santa Monica-Malibu's placement offer at the November 9, 2016 IEP team

meeting, was appropriate and Student did not prevail on this issue.

ISSUES 4(A) AND 4(B): DID SANTA MONICA-MALIBU PREDETERMINE ITS OFFER OF PLACEMENT AND SERVICES AND FAIL TO CONSIDER INPUT FROM MOTHER AND OTHER PROFESSIONALS AT THE JUNE 6, 2017 IEP TEAM MEETING?

52. Parent contended Santa Monica-Malibu predetermined its offer of nonpublic school at the June 6, 2017 IEP team meeting and refused to consider funding Student's continued placement at Arete. Parent also contended Santa Monica-Malibu failed to consider input from Mother and Arete staff on Student's progress at Arete and his unique educational needs.

53. Santa Monica-Malibu contended it considered all relevant information it had regarding Student, including input from Parents and other professionals working with Student, in order to formulate its offer of placement and services.

Legal Authority-Predetermination and Parental Participation

54. Parents must be afforded an opportunity to participate in meetings with respect to the identification, assessment, educational placement, and provision of a FAPE to their child. (20 U.S.C. § 1414(d)(1)(B)(i); Ed. Code, §§ 56304, 56342.5.) A parent has meaningfully participated in the development of an IEP when he or she is informed of the child's problems, attends the IEP meeting, expresses disagreement with the IEP team's conclusions, and requests revisions in the IEP. (*N.L. v. Knox County Schools*. (6th Cir. 2003) 315 F.3d 688, 693.) A parent who has an opportunity to discuss a proposed IEP, and whose concerns are considered by the IEP team, has participated in the IEP process in a meaningful way. (*Fuhrmann v. East Hanover Bd. of Educ.* (3d Cir. 1993) 993 F.2d 1031, 1036.)

55. An educational agency's predetermination of an IEP seriously infringes on parental participation in the IEP process, which constitutes a procedural denial of FAPE.

(See *W.G. v. Target Range School Dist.* (9th Cir. 1992) 960 F.2d 1479, 1483-1485, superseded by statute on other grounds by IDEA Amendments of 1997 (citations omitted).) Predetermination occurs when an educational agency has made its determination prior to the IEP team meeting, and enters the IEP team meeting with a "take it or leave it" position. (See *Ms. S. ex rel G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1131, *superseded by statute on other grounds* (citation omitted) ["A school district violates IDEA procedures if it independently develops an IEP, without meaningful parental participation, then simply presents the IEP to the parent for ratification."].) Developing an IEP that does not fully conform to a parent's wishes does not mean the district engaged in predetermination. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.)

56. School districts are not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school if the school district made FAPE available to the child and the parents elected to place the child in the private school. (34 C.F.R. § 300.148(a).)

Analysis

57. Student did not meet his burden of proving Santa Monica-Malibu predetermined the offer of placement and services at the June 6, 2017 IEP team meeting. Student also did not meet his burden of proving Santa Monica-Malibu failed to consider input from Mother and other professionals working with Student.

58. As discussed above, Santa Monica-Malibu relied upon information presented by Arete staff and Mother at the IEP team meeting in order to determine Student's present levels of performance. At the time of the meeting, Student had not attended a Santa Monica-Malibu placement in nearly six months, so the only available current data was Student's performance at Arete. Arete staff discussed Student's academic and social/emotional progress. Santa Monica-Malibu relied upon the

information that Student made progress in a smaller school setting to formulate its placement offer of nonpublic school. During the meeting, Santa Monica-Malibu team members explained that a nonpublic school could offer both a small school setting and the therapeutic services in Student's IEP.

59. Mother expressed disagreement with Santa Monica-Malibu's offer of FAPE at the IEP team meeting. Mother wanted Student to remain at Arete. Santa Monica-Malibu considered Mother's request but was unwilling to offer placement at Arete because it was unable to implement Student's IEP. Mother specifically expressed disagreement about Beach Cities Learning Center because her research revealed the school had a significant number of students with behavioral challenges. Mr. Vegas acknowledged Mother's disagreement and recommended the Help Group instead.

60. The documentary evidence and witness testimony supported a finding that Mother and Arete staff actively participated in the discussions at the June 6, 2017 IEP team meeting, and that Santa Monica-Malibu considered all information shared. The documentary evidence and witness testimony did not support a finding that Santa Monica-Malibu determined what its offer of FAPE would be prior to the June 6, 2017 meeting. Instead, the determination was made only after considering the input received during the meeting. Thus, Student did not prevail on this issue.

ISSUE 4(E): DID SANTA MONICA-MALIBU FAIL TO MAKE A CLEAR, WRITTEN OFFER OF PLACEMENT IN THE JUNE 6, 2017 IEP?

61. Student contended Santa Monica-Malibu's offer of placement in the June 6, 2017 IEP was not clear. Student further contended Mother did not receive a copy of the IEP after the meeting. Santa Monica-Malibu contended the IEP clearly offered placement in a nonpublic school at the Help Group.

Legal Authority-IEP Offer

62. The IDEA requires school districts to make a formal, written IEP offer that parents can understand. (*Union School Dist. v. Smith* (9th Cir. 1994) 15 F. 3d 1519, 1526, cert. den., 513 U.S. 965.) The requirement of a formal, written offer creates a clear record that will do much to eliminate factual disputes in the future. (*Ibid.*)

Analysis

63. Santa Monica-Malibu's offer of FAPE at the June 6, 2017 IEP was placement in a nonpublic school with 1800 minutes a week of specialized academic instruction, 60 minutes a week of individual school-based counseling, 60 minutes a week of individual educationally related intensive counseling, and 30 minutes a month of parent counseling. With respect to placement, the IEP document further clarified Santa Monica-Malibu's offer as being the Help Group, a nonpublic school. Santa Monica-Malibu's offer of placement and services was clear and in writing in the IEP document.

64. As discussed above, Mother's testimony that Santa Monica-Malibu did not provide her with a copy of the June 6, 2017 IEP was deemed unpersuasive because there was no other corroborating documentary evidence or testimony to support the claim. Thus, Student did not prevail on this issue.

ORDER

All of Student's requests for relief are denied.

PREVAILING PARTY

Pursuant to 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. Here, Santa Monica-Malibu prevailed on all issues presented.

RIGHT TO APPEAL

This Decision is the final administrative determination and is binding on all parties. (Ed. Code, § 56505, subd. (h).) Any party has the right to appeal this Decision to a court of competent jurisdiction within 90 days of receiving it. (Ed. Code, § 56505, subd. (k).)

DATED: July 27, 2018

_____/s/_____
TARA DOSS
Administrative Law Judge
Office of Administrative Hearings