

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CASE NO. 2019060021

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL DISTRICT.

DECISION

DECEMBER 11, 2019

On, May 31, 2019, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Torrance Unified School District as respondent. Administrative Law Judge, Ted Mann, heard this matter in Torrance, California on October 15, 16, and 17, 2019.

Attorney Michael J. Smith, represented Student. Mother attended all hearing days on Student's behalf. Student did not attend the hearing. Attorney Sundee Johnson, represented Torrance. Melinda Smith, Torrance's Director of Compliance, attended all hearing days on respondent's behalf.

At the parties' request the matter was continued until November 4, 2019 for written closing briefs. The briefs were timely filed, the record closed, and the matter submitted on November 4, 2019.

ISSUES

1. Did Torrance deny Student a free appropriate public education, referred to as FAPE, from May 31, 2017, to December 2018, by failing to provide a specially designed program to meet Student's unique needs that would provide more than de minimis progress in the areas of academics, behavior, communication, functional skills, and transition skills?
2. Did Torrance deny Student a FAPE from May 31, 2017, to December 2018, by failing to develop an individualized transition plan and offer transition services reasonably calculated to prepare Student to enter a Regional Center Adult Day Program in December 2018?
3. Did Torrance deny Student a FAPE by failing to implement the specialized academic instruction and small group instruction services in the June 20, 2017, and June 6, 2018 individualized education programs?

JURISDICTION

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

- all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to

meet their unique needs and prepare them for further education, employment and independent living, and

- the rights of children with disabilities and their parents are protected. (20 U.S.C. §1400(d)(1); See Ed. Code, §56000, subd. (a).)

The IDEA affords parents, adult students and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. 300.511; Ed. Code, §§ 56501, 56502, 56505; Cal. Code Regs., tit. 5, § 3082.) When students with disabilities reach the age of 18, with the exception of an individual who has been determined to be incompetent under state law, and other than the right to receive certain notices, all other rights accorded to a parent, with respect to special education, transfer to the student. (Ed. Code, § 56041.5.)

The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. §1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. §1415(i)(2)(C)(iii).) Student had the burden of proof. The factual statements below constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. sec. 1415(h)(4); Ed. Code, sec. 56505, subd. (e)(5).)

Student was 22 years old and had aged out of special education as of December 2018 at the time of hearing. Student resided within the Torrance's geographic boundaries and attended the Center for Learning Unlimited, a non-public school, at all relevant times. Student was eligible for special education under a primary eligibility of intellectual disability.

Student had a neuro-genetic disorder known as Angelman's Syndrome. Student's condition caused severe intellectual disability, speech impediment, sleep disturbance, unstable jerky gait, and a happy demeanor. Angelman's Syndrome also resulted in visual field impairments that lead to reflexive, autonomic defensive reactions that could be dangerous to both Student and those nearby. Student was approximately six feet tall, and weighed approximately 340 pounds. His large size contributed significantly to the danger to others arising from reflexive, maladaptive and or non-compliant behavior, and further complicated his broad lack of understanding of his size and strength. Student's condition has greatly affected him throughout the course of his life and education.

ISSUE 1: DID TORRANCE DENY STUDENT A FAPE, FROM MAY 31, 2017, TO DECEMBER 2018, BY FAILING TO PROVIDE A SPECIALLY DESIGNED PROGRAM TO MEET STUDENT'S UNIQUE NEEDS THAT WOULD PROVIDE MORE THAN DE MINIMIS PROGRESS IN THE AREAS OF ACADEMICS, BEHAVIOR, COMMUNICATION, FUNCTIONAL SKILLS, AND TRANSITION SKILLS?

Student contends that Torrance denied him a FAPE due to the failure of the program provided to afford Student the opportunity to make more than de minimis progress. More specifically, Student contends that he did not make progress consistent with his abilities in the areas of academics, behavior, communication, functional skills, and transition skills. Torrance contends that Student made appropriate progress consistent with his abilities in the areas identified, and that he was not denied a FAPE during the period at issue.

A FAPE, means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel develop an individualized education program, referred to as an IEP, for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14) and (26), 1414(d)(1)(A); Ed. Code, §§ 56031, 56032, 56345, subd. (a) and 56363 subd. (a); 34 C.F.R. §§ 300.17, 300.34, 300.39 Cal. Code Regs., tit. 5, § 3001, subd. (p).)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982) 458 U.S. 176; *Endrew F. v. Douglas County School Dist.* (2017) 580 U.S. ____ [137 S.Ct. 988, 1000]; *E.F. v. Newport Mesa Unified School Dist.* (9th Cir. 2018) 726 Fed.Appx. 535.)

For students with disabilities who graduate from high school without a regular high school diploma, the right to receive a FAPE generally extends to age 21. (20 U.S.C. § 1412 (a)(1); 34 C.F.R. §§ 300.101; 300.102 (a)(3).)

Education Code, sections 52500 et seq., allows a school district to establish special classes for adults designed to serve the educational needs of adults with disabilities. These classes shall be directed to providing instruction in civic, vocational, literary, homemaking, technical, and general education. Special classes for adults with disabilities may be conducted in workshop and training facilities provided by nonprofit organizations, or in public school facilities. These facilities may include part-time paid work education and training where less than the state minimum wage is paid. (Ed. Code, §§ 52570, 52571.)

Within a few weeks of his arrival at Center for Learning Unlimited in December 2015, Student had been unable to continue regularly accessing his assigned classroom at Center for Learning Unlimited due to the overstimulation caused by that setting. Instead, Student spent a significant portion of his day in a small classroom being de-escalated and receiving one-to-one instruction. This arrangement continued through the time his 2017 IEP was developed.

Student's 2017 IEP met on June 20, 2017, and October 12, 2017. All necessary individuals attended each session, with 15 attendees at each meeting, including Mother and Student's attorney. Student's present levels of performance were presented in detail. Student was non-verbal, a non-reader, and required a full-time, one-to-one aide throughout the day, including during transportation. Student communicated wants and needs through a combination of body language, gestures, signs, and some sounds or verbalizations. Student's maladaptive behaviors consisted of spitting, hitting, throwing objects including his iPad, and grabbing others. His non-compliant behaviors included slapping the table, laying on the ground, and ripping, tearing, or breaking items.

Torrance's attempts to evaluate Student for the 2017 IEP were precluded by Student's increased maladaptive behavior. Instead, the results of an independent neuropsychological evaluation by Leah Ellenberg, Ph.D. and Associates, were presented at the second meeting. The evaluators found that Student's cognitive abilities were in the impaired range, at less than a two-year, six-month level. Student's communication, functional skills, gross and fine motor skills, and social-emotional functioning were similarly impacted.

The 2017 IEP offered Student specialized academic instruction in a special day class setting for 314 minutes daily at Center for Learning Unlimited, with a full-time, one-to-one behavioral aide for 465 minutes daily to allow for transportation support.

Student also was offered 840 minutes per month of behavioral supervision services. Student was offered 60 minutes per week of individual speech services, 30 minutes twice weekly of group speech services, along with 30 minutes of speech consultation per week. Student was offered 30 minutes per week of individual occupational therapy, along with 90 minutes monthly of occupational therapy consultations. Student was also offered 180 minutes per year of assistive technology consultation, and 60 minutes of assistive technology services to set-up his iPad. Student did not use the iPad for voice output as he was unable to do so, rather he used the iPad to view videos he had made and that he enjoyed watching. Student was also offered extended school year services, and additional post-extended school year services.

New goals, including four behavioral goals and one functional living goal, were proposed and discussed, and a proposed program and services were discussed in detail. Two additional goals were added at the second session, including a math goal related to identifying the numbers one to four, and a functional living goal related to initiating a gestural greeting without maladaptive behaviors.

Both a detailed behavior intervention plan and a transition plan were discussed and included in the IEP offer. The transition plan was geared to increasing Student's independence and preparing him for adult life consistent with his capabilities. Student's goals reflected his transition needs and plans. Student's Attorney and Mother raised concerns regarding Student, fully participated in the discussions, and ultimately agreed with the outcome. Mother signed the IEP in full agreement.

Student's 2018 IEP was formulated at an IEP meeting on June 6, 2018. The IEP meeting was attended by the necessary team members, including Mother, Student's attorney, Student's behavior supervisor, Jasmin Brown, the Harbor Regional Center case coordinator, Diana Sandoval, Student's social worker, Jeanette Lomeli, Center for

Learning Unlimited Director, Virginia Erxleben, and STAR of California clinical director, Faye Carter. The IEP meeting was recorded by both Student and Torrance.

The program offered to Student was very similar to the program offered in the 2017 IEP, including placement in a special day class with a full-time, on-to-one aide, and similar service levels. Once again Student's present levels and unique needs were presented and discussed in detail. The IEP team also discussed Student's increased behavioral issues following the departure of a long-time one-to-one aide, and the negative effect that had had upon his entire program for many months. Mother consented to all parts of the June 6, 2018 IEP.

The 2017 and 2018 IEPs were reasonably calculated to meet Student's unique educational needs and allow reasonable progress in light of his circumstances. Torrance provided Student with a comprehensive program, including placement at Center for Learning Unlimited, and extensive services from non-public agencies, thoughtfully designed to address Student's needs. Torrance, despite its efforts, was unable to bring Student along farther or faster for two important reasons.

First, Student's Angelman's Syndrome left him with serious impairments, as thoroughly and credibly documented by witnesses at hearing, as well as the independent neuro-psychological report. Student was emotionally labile, and had reflexive responses to stimulation and over-stimulation that made his management extremely difficult as both his safety and that of others was constantly at the forefront. Student also operated at very low cognitive, functional, communicative, and social-emotional levels, requiring very remedial instruction and services. Student did not prove the 2017 and 2018 IEPs were not reasonably calculated to enable Student to make progress at a reasonable rate given these impairments.

Second, to the extent that Student's long-time one-to-one aide departed at the end of 2017, resulting in behavioral regression, Torrance cannot be held to account for such a change in personnel. Despite the issues arising from the aide's departure, Student's regression was gradually reversed through Student's team's efforts, and consistent and continual use of Student's behavioral support plan.

ISSUE 2: DID TORRANCE DENY STUDENT A FAPE FROM MAY 31, 2017, TO DECEMBER 2018, BY FAILING TO DEVELOP AN INDIVIDUALIZED TRANSITION PLAN AND OFFER TRANSITION SERVICES REASONABLY CALCULATED TO PREPARE STUDENT TO ENTER A REGIONAL CENTER ADULT DAY PROGRAM IN DECEMBER 2018?

Student contends that Torrance failed to adequately develop an individualized transition plan and offer transition services reasonably calculated to allow Student to continue with his post-IDEA life. Student's contentions are centered around the idea that Torrance did not prepare Student to transition to his desired adult day program, which required discontinuation of his long-standing one-to-one, full-time behavioral aide.

Torrance contends that an appropriate transition plan was developed for Student, and that the offered plan and services were reasonably calculated to prepare for his post-IDEA life. Torrance also contends that Student is significantly impaired by his disabilities and will likely require a one-to-one, full-time aide in most, if not all, settings for the foreseeable future.

Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include appropriate measurable postsecondary goals based

upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and the transition services, including courses of study, needed to assist the pupil in reaching those goals. (20 U.S.C. § 1414 (d)(1)(A)(i)(VIII); Ed. Code, §§ 56345, subd. (a)(8); 56043, subd. (g)(1).)

"Transition services" are defined in the IDEA as a coordinated set of activities designed within a results-oriented process, focused on improving the academic and functional achievement to facilitate movement from school to post-school activities, such as postsecondary education, vocational education, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation. Transition services are to be based upon individual needs, taking into account individual strengths, preferences, and interests. Transition services include instruction, related services, community experiences, development of employment and other post-school adult living objectives. If appropriate, transition services include acquisition of daily living skills and provision of a functional vocational evaluation. (Ed. Code, § 56345.1, subd. (a); 20 U.S.C. § 1401(34); 34 C.F.R. § 300.43(b).)

The analysis of whether FAPE was offered is not altered by the fact that "transition services" are at issue. (*J.L. v. Mercer Island School Dist.* (9th Cir. 2010) 592 F.3d 938.) Transition services like special education and related services, are sufficient when a student is offered a FAPE under Rowley. (*J.L. v. Mercer Island School Dist., supra*, 592 F.3d 938.)

The failure to properly formulate a transition plan may be a procedural violation of the IDEA that warrants relief only upon a showing of a loss of educational opportunity or the denial of a FAPE. (*Board of Education v. Ross* (7th Cir. 2007) 486 F.3d 267, 276 [despite transition plans being a mandatory component of an IEP, notation in IEP that

the transition plan would be “deferred” was a procedural violation]; *A.S. v. Madison Metro School Dist.* (D. Wis. 2007) 477 F.Supp.2d 969, 978 [allegation of inadequate transition plan treated as a procedural violation].) In matters alleging a procedural violation, a due process hearing officer may find that a child did not receive a FAPE only if the procedural violation did any of the following: impeded the right of the child to a FAPE; significantly impeded the opportunity of the parents to participate in the decision-making process regarding the provision of a free appropriate public education to the child of the parents; or caused a deprivation of educational benefits. (20 U.S.C. § 1415 (f)(3)(E); Ed. Code, § 56505, subd. (f).) The hearing officer “shall not base a decision solely on nonsubstantive procedural errors, unless the hearing officer finds that the nonsubstantive procedural errors resulted in the loss of an educational opportunity to the pupil or interfered with the opportunity of the parent or guardian to participate in the formulation process of the individualized education program.” (Ed. Code, § 56505, subd. (j).)

Student’s IEPs from May 31, 2017 forward, including those of June 20, 2017 and June 6, 2018, each contained a transition plan developed by the IEP team and agreed to by Mother following extensive discussion. Student’s attorney attended each of the IEP meetings at issue. The documents addressed Student’s goals for potential post-secondary training or education, employment, and independent living, and connected those transition goals to Student’s IEP goals. The documents reflected Student’s limited strengths, and the impairments that presented challenges to Student’s post-secondary life.

The June 6, 2018 IEP contained detailed notes that evidenced thorough team discussion of Student’s abilities and needs in the context of his transition from the Center for Learning Unlimited to his post-secondary life. The thoroughness of the

ongoing discussions and planning was also corroborated by each of the witnesses at hearing that addressed Student's transition issues. The IEP team reasonably anticipated that Student would enter an adult day program with community-based instruction, and engaged in detailed planning for that transition. The team formulated a tentative step-wise visitation and transition plan to an adult day program starting with initial meet and greet visits, and progressing to part-day visits with the goal of full transition to an adult day program by the time of Student's exit from the IDEA.

Student attempted to visit three adult day programs selected by Mother from all potential programs available, but each program required Student to participate without a one-to-one aide. Typically, adult day programs had some behavioral assistance, but no dedicated aides, and non-public agency aides were not allowed for programmatic or liability reasons. Adult day programs also typically involved significant levels of community-based instruction.

At the time Student transitioned out of the IDEA, none of the programs Mother wanted for Student would permit Student to import his own aide, nor provide full-time one-to-one aides for their adult enrollees. One program sent a representative to observe Student at the Center for Learning Unlimited, but based upon the observations, Student was not a candidate for the program. Other programs were potentially available, but the three programs selected by Mother were based upon her desires for Student's next placement. Student did not present any evidence regarding why Student could not attend a program other than the ones selected by Mother.

Ultimately, Student's inability to operate in either a school environment, or out in public, without a full-time, one-to-one aide precluded his participation in any of the three programs Mother had selected. Student's functional levels, lack of safety

awareness, behaviors, and his reflexive responses to his environment necessitated such an aide for his safety and that of others.

The evidence did not show that Student was denied a FAPE either in the development of the transition plan or in the transition services offered to him. The IEP team thoroughly considered Student's abilities and needs, and developed an appropriate transition plan for Student. Although Mother was disappointed at the extent of Student's progress, the IEP team formulated an appropriate IEP considering Student's unique circumstances, and Student's providers made admirable efforts to assist Student in progressing. The IEP team also formulated an appropriate, reasonable plan to transition Student from Center for Learning Unlimited to his post-IDEA life, including a hoped for adult day program.

Although Student continued to be in need of a full-time, one-to-one behavioral aide at the time he transitioned to adult life, precluding his attendance at Mother's desired adult day programs, the evidence did not show that this was the result of any failure by Torrance during the period at issue here. Ultimately, the structure of the adult day programs combined with the impact of Angelman's Syndrome on Student's functioning and independence were the bar to his immediate transition to Mother's preferred adult day program, not the failure to offer an appropriate IEP.

ISSUE 3: DID TORRANCE DENY STUDENT A FAPE BY FAILING TO IMPLEMENT THE SPECIALIZED ACADEMIC INSTRUCTION AND SMALL GROUP INSTRUCTION SERVICES IN THE JUNE 20, 2017, AND JUNE 6, 2018 IEPs?

Student contends that Torrance failed to implement the specialized academic instruction and small group instruction services provided in the his relevant IEPs and

that as a result Student was denied a FAPE. Torrance contends that it provided the services to the extent that Student was able to participate in such services, and that any failure to comply with the terms of the IEP did not result in the denial of educational benefit to Student.

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

The methodology used to implement an IEP is left up to the district's discretion so long as it meets a student's needs and is reasonably calculated to provide meaningful educational benefit to the child. (*Rowley, supra*, 458 U.S. at p. 208; *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149-1150; *Pitchford v. Salem-Keizer Sch. Dist.* (D. Or. 2001) 155 F.Supp.2d 1213, 1230-32; *T.B. v. Warwick School Committee* (1st Cir. 2004)

361 F.3d 80, 84 (citing *Roland M. v. Concord School Committee* (1st Cir. 1990) 910 F.2d 983, 992.) Parents, no matter how well motivated, do not have a right to compel a school district to provide a specific program or employ a specific methodology in providing education for a disabled student. (*Rowley, supra*, 458 U.S. at pp. 207-208.) However, once a service, system, or device is included in a student's IEP, then the district is obligated to provide that component. (Ed. Code, § 56345, subd. (c).) Following the development of the IEP, the district must provide required services as soon as possible. (34 C.F.R. § 300.323(c)(2).)

The June 20, 2017 and June 6, 2018 IEPs each offered specialized academic instruction and small group instruction for 314 minutes daily during Student's school day at Center for Learning Unlimited. Student started out at Center for Learning Unlimited in a small classroom of approximately half a dozen students, but within a few weeks of starting at Center for Learning Unlimited, Student's behavior was such that he was moved for much of the school day to a smaller room where he could be both de-escalated and provided with individualized instruction. Student was reported to exhibit significant and potentially dangerous behaviors, such as arm flailing, grabbing, desk pounding, spitting, and throwing objects when exposed to the overstimulation of the classroom at Center for Learning Unlimited.

The October 2017 independent educational evaluation prepared by clinical neuro-psychologists Laura McDonald, Psy.D, and Leah Ellenberg, Ph.D., recommended that Student continue forward for as long as possible in exactly the setting provided for him by Center for Learning Unlimited. Those assessors recommended that due to Student being easily overstimulated he should be educated in a small classroom that was not overwhelming for him. The report noted that Student became easily dysregulated and distracted by other students, leading to negative behaviors, and

recommended the use of a one-on-one or one-on-two instructional setting for Student to be successful. The report also recommended very small groups or a sole peer for social and leisure activities.

The neuro-psychological report was consistent with testimony at hearing from Student's long-time one-to-one aide, Mr. Diaz, his special education teacher at CLU, Jennifer Laferriere, Center for Learning Unlimited's director, Virginia Erxleben, Student's speech and language pathologist, Kelly Bryant, and his occupational therapist, Lisa Johnson. Each of these witnesses convincingly corroborated the behavioral and reflexive issues that prevented Student from accessing the larger classroom for group instruction on a regular basis. The witnesses also corroborated the continuing and ongoing efforts by Center for Learning Unlimited and Student's providers to assist Student in accessing the group classroom and otherwise making progress. Student's parent and attorney were also well aware of the use of the individual classroom and there was no credible testimony that either raised significant concerns or objections to individualized instruction at the time it was being implemented.

Student asserts that Torrance strayed from the specific IEP offers to Student of specialized academic instruction, and thus failed to implement the IEP offers with the necessary fidelity. Student was not provided the placement identified in the IEPs. Although Torrance had significant latitude regarding the methodology used to implement the IEPs, it is difficult to reconcile Student's placement in a separate classroom with a methodological choice. There is a material difference between small class size with small group instruction and relative isolation in a one-on-one setting. Torrance's arguments that it provided the placement in material part, or that Student's accommodations permitted the wholesale change in placement do not support a finding that the change in placement reflected minor discrepancies between the services

provided and the services required in the IEPs. Torrance did not materially implement the program identified in the relevant IEPs.

However, the analysis does not end there. As explained, above, in the discussion and analysis pertaining to Student's Issue 2, a procedural violation is not enough, in itself to find a substantive FAPE violation. To find a substantive FAPE violation, it must be found that the procedural FAPE violation: impeded the right of the child to a FAPE including significantly impeding the opportunity of the parents to participate in the decision-making process regarding the provision of a free appropriate public education to the child of the parents, or caused a deprivation of educational benefits. Critically, the evidence strongly supports an opposite conclusion, as none of these elements were demonstrated here.

As discussed in Student's Issue 1, Student was not denied a FAPE in the placement and services provided for in his relevant IEPs. Similarly, Mother was well aware of the use of the individual classroom, and had ample opportunity to raise an issue with its use during the time Student attended the Center for Learning Unlimited, either during the IEP meetings she and Student's attorney attended, or otherwise. Student failed to prove by a preponderance of the evidence that Mother was denied the opportunity to participate in the decision-making process.

Student did not prove he was deprived of an educational benefit due to the use of the individual classroom to educate Student for significant portions of the school day. Both testimony from the various witnesses at hearing, along with the clear, unequivocal recommendations of the independent educational evaluation report, support the conclusion that the use of the individual classroom for Student provided him with an educational benefit, and was likely a better fit for Student than the special day classroom given his challenges with overstimulation, and resulting behavioral outbursts.

Although better practice may have been for Student's IEPs to have been revised to indicate the use of the individual classroom, the extensive use of the classroom as described by the hearing witnesses did not result in a deprivation of educational benefit to Student.

CONCLUSIONS AND 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. Torrance prevailed on the issues heard and decided.

1. Student did not prove Torrance denied Student a FAPE from May 31, 2017, to December 2018, by failing to provide a specially designed program to meet Student's unique needs that would provide more than de minimis progress in the areas of academics, behavior, communication, functional skills, and transition skills.
2. Student did not prove Torrance denied Student a FAPE from May 31, 2017, to December 2018, by failing to develop an individualized transition plan and offer transition services reasonably calculated to prepare Student to enter a Regional Center Adult Day Program in December 2018.
3. Student did not prove Torrance denied Student a FAPE by failing to implement the specialized academic instruction and small group instruction services in the June 20, 2017, and June 6, 2018 individualized education programs.

ORDER

All Student's requests for relief are denied.

RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56506, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

/s/

TED MANN

Administrative Law Judge

Office of Administrative Hearings