

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

TORRANCE UNIFIED SCHOOL DISTRICT.

CASE NO. 2023060634

DECISION

DECEMBER 22, 2023

On June 19, 2023, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Torrance Unified School District. On July 13, 2023, OAH continued the matter for good cause. Administrative Law Judge Linda Dowd heard this matter by videoconference on October 24, 25, and 26, 2023.

Attorney Allison Hertog represented Student. Parent attended all hearing days on Student's behalf. Attorney Sundee Johnson represented Torrance Unified. Melinda Smith, Torrance Unified's compliance director, attended all hearing days on Torrance Unified's behalf.

At the parties' request, the matter was continued to November 14, 2023, for written closing briefs. The record was closed, and the matter was submitted on November 14, 2023.

## ISSUES

In this Decision, a free appropriate public education is called a FAPE, and an individualized education program is called an IEP. Prior to the hearing, Student withdrew Issue 3 as stated in the October 16, 2023, Order Following Prehearing Conference. Further, Student clarified that Issue 2 only relates to the adequacy of Student's academic goals. OAH reorganized and renumbered the issues to reflect these changes. Additionally, Issues 5 and 9 were split into two sub-issues for clarity.

1. Did Torrance Unified deny Student a FAPE in February 2022 when Student transferred into the district by failing to:
  - a. offer Student comparable services to his last IEP, and
  - b. consult with Parent about the services offered?
2. Did Torrance Unified deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to develop goals to adequately address his academic needs during the IEP team meetings on:
  - a. March 7, 2022,
  - b. March 24, 2022,
  - c. April 19, 2022, and
  - d. May 12, 2022?

3. Did Torrance Unified deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to have all required team members present at the IEP team meetings on:
  - a. March 7, 2022,
  - b. March 24, 2022,
  - c. April 19, 2022, and
  - d. May 12, 2022?
4. Did Torrance Unified deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to provide Parent with the required IEP team meeting notices for all IEP team meetings?
5. Did Torrance Unified deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to implement Student's:
  - a. behavior supports, and
  - b. specialized academic instruction?
6. Did Torrance Unified deny Student a FAPE in the June 2022 and October 2022 IEPs by failing to include goals to adequately address Student's academic needs?
7. Did Torrance Unified deny Student a FAPE during the 2022-2023 school year by failing to provide Parent with the required IEP team meeting notices for all IEP team meetings except the May 2023 and June 2023 IEP team meetings?

8. Did Torrance Unified deny Student a FAPE at the October 17, 2022, IEP team meeting by failing to have all required team members present?
9. Did Torrance Unified deny Student a FAPE during the 2022-2023 school year by failing to implement Student's:
  - a. specialized academic instruction, and
  - b. educationally related intensive counseling services?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, referred to as the IDEA, 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 IDEA are to ensure:

- all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, and
- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code,

§§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Here, Student filed the complaint and has the burden of proof on the issues. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 10 years old and in fifth grade at the time of hearing. Student resided within Torrance Unified's geographic boundaries at all relevant times. Student was eligible for special education under the category of other health impairment.

#### ISSUES 1(a) AND (b): DID TORRANCE UNIFIED DENY STUDENT A FAPE IN FEBRUARY 2022 WHEN STUDENT TRANSFERRED INTO THE DISTRICT BY FAILING TO OFFER COMPARABLE SERVICES AND CONSULT WITH PARENT?

Student contends Torrance Unified's interim special education services offer did not offer specialized academic instruction that was similar to the services in Student's last agreed upon and implemented IEP. Student contends Torrance Unified offered him significantly less specialized academic instruction and placed him in a larger classroom setting. Student further contends the interim IEP document was ambiguous because it was only partially complete. Therefore, Parent could not understand Torrance Unified's offer. Finally, Student contends Torrance Unified did not consult with Parent regarding the interim special education services offer.

Torrance Unified contends it spoke to Parent about the interim special education services offer and Parent agreed to the placement. Torrance Unified contends it offered Student the exact behavior intervention and counseling services that were offered in Student's last implemented IEP. Torrance Unified further contends it offered an appropriate amount of specialized academic instruction to address the goals in Student's last implemented IEP and the amount of specialized academic instruction Student previously received was unclear.

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 IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

The IDEA and California law have specific requirements for students who transfer between public schools in the same academic year. These statutes are commonly referred to as the intrastate transfer statutes. The IDEA requires school districts to provide a FAPE to students with disabilities who transfer between school districts within the same academic year, and who have an IEP in effect in the same state, by providing services comparable to those described in the previous IEP, in consultation with the parents. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e).) The receiving school district is required to provide the comparable services until such time as the school district either adopts the previously implemented IEP, or develops, adopts, and implements a new IEP. (*Id.*)

The California Education Code mirrors the IDEA and further provides that for an individual with exceptional needs who transfers into a school district not operating under the same local plan area, the new district shall provide the individual with a FAPE, including services comparable to those described in the previously approved IEP, in consultation with the parents, "for a period not to exceed 30 days." (Ed. Code, § 56325, subd. (a)(1); 20 U.S.C. § 1414(d)(2)(C)(i)(I).) The district must then adopt the previously approved IEP or shall develop, adopt, and implement a new IEP that is consistent with federal and state law. (Ed. Code, § 56325, subd. (a)(1).) The intrastate transfer provisions under the IDEA and Education Code only apply in the case of a child with a disability who transfers into another school district within the same academic year. (Ed. Code, § 56325, subd. (a)(1); 20 U.S.C. § 1414(d)(2)(C)(i)(I).)

Failure to comply with any of the above requirements are procedural violations of the IDEA and Education Code. Procedural compliance is closely scrutinized. "Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation" at every step "as it did upon the measurement of the resulting IEP." (*Rowley*, 458 U.S. 176 at pp. 205–06.)

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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 decisionmaking process regarding the provision of a FAPE 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).)

Student transferred from Los Angeles Unified School District to Torrance Unified on February 7, 2022. Student had an IEP from Los Angeles Unified dated October 7, 2021, that offered him a full-time behavior aide, 360 minutes a month of behavior supervision, and 900 minutes per week of a special day program in a special education setting. Los Angeles Unified did not list specialized academic instruction as a service in the section of the IEP that listed related services, but the 900 minutes per week of a special day program was listed on the IEP. Additionally, Student's placement type was listed as special day program in a special education center. Student's Los Angeles Unified IEP was not clear and caused some confusion when Student enrolled at Torrance Unified.

Torrance Unified reviewed Student's Los Angeles Unified IEP, attempted to get clarification from Los Angeles Unified, and spoke to Parent about Student's program and services he received from Los Angeles Unified. Both Student's case manager, Andrea Carberry, and Dr. Lisa Hall, Torrance Unified's special education director, talked to Parent about the Los Angeles Unified IEP and Torrance Unified's interim placement

offer. Carberry understood from the Los Angeles Unified IEP that Student was in a mild to moderate special day class for approximately half his school day. Torrance Unified did not offer mild to moderate special day classes at Student's school. Carberry reviewed Student's goals and, in an interim placement document dated February 9, 2022, offered placement in a general education class with 60 minutes of pull-out specialized academic instruction daily in the learning center. Carberry believed 60 minutes daily of pull-out specialized academic instruction was the least restrictive environment for Student. Carberry was unsure if the general education placement with 60 minutes daily of specialized academic instruction was comparable to the 900 minutes per week of a special day class that Student had received, but she thought 60 minutes a day was sufficient to address Student's goals.

Both Carberry and Michelle Amundson, Torrance Unified's special education program specialist, understood from the Los Angeles Unified IEP that Student received 900 minutes per week of specialized academic instruction in a special day class. Amundson believed the Torrance Unified general education placement was similar because Student would be pulled out of his general education class to the learning center for specialized academic instruction. The learning center was a mild to moderate setting which Amundson thought was similar to the special day class placement where Student received his services at Los Angeles Unified.

Dr. Hall's testimony that she did not understand Student had received 900 minutes per week of specialized academic instruction in a special day class while at Los Angeles Unified, was not persuasive. While the Los Angeles Unified IEP could have been clearer, both Carberry and Amundson understood the services and placement Los Angeles Unified offered Student.

Torrance Unified was required to provide comparable services until it either adopted the Los Angeles Unified IEP or developed a new IEP. (20 U.S.C. § 1414(d)(2)(C)(i)(1); 34 C.F.R. § 300.323(e).) Carberry's decision to offer services she believed sufficient is not the legal standard. Although the Los Angeles Unified IEP did not list the specialized academic instruction Student received in the correct section, it did have 900 minutes per week of a special day program listed on the IEP. The general education placement plus 60 minutes of daily specialized academic instruction that Torrance Unified offered Student was not comparable to the 900 weekly minutes he received while at Los Angeles Unified.

Torrance Unified's failure to offer Student comparable services was a procedural violation that resulted in a loss of educational benefit. Torrance Unified offered Student significantly less specialized academic instruction than he received while attending Los Angeles Unified. Torrance Unified's offer was only one third of the amount of specialized academic instruction Student previously received. Torrance Unified did not offer a persuasive explanation that the general education placement plus 60 minutes of daily specialized academic instruction was comparable to the 900 weekly minutes he received while at Los Angeles Unified. Even though Parent agreed to the interim placement offer, Parent is not an educator. Districts have an affirmative responsibility to offer FAPE, and in this case offer comparable services, even if Parent agrees to something less than what is legally required.

Student proved Torrance Unified denied him a FAPE from February 7, 2022, through March 9, 2022, when Parent consented to the 30-day interim placement review IEP. For these reasons, Student prevailed on Issue 1(a).

However, Student did not prove Torrance Unified failed to consult with Parent about the services offered. As discussed above, both Carberry and Dr. Hall called Parent before making the interim placement offer. Carberry and Dr. Hall discussed Student's program at Los Angeles Unified and the proposed program at Torrance Unified with Parent. For these reasons, Torrance Unified prevailed on Issue 1(b).

## ISSUE 2: DID TORRANCE UNIFIED DENY STUDENT A FAPE FROM FEBRUARY 10, 2022, THROUGH THE END OF THE 2021-2022 SCHOOL YEAR BY FAILING TO DEVELOP GOALS TO ADEQUATELY ADDRESS HIS ACADEMIC NEEDS?

Student contends Torrance Unified failed to adopt Student's previous Los Angeles Unified IEP and failed to develop its own goals for Student at the March 7, 2022, 30-day interim placement IEP team meeting. Student argues because Torrance Unified did not adopt the Los Angeles Unified IEP in its entirety, Torrance Unified's IEP amendments were legally invalid. Student further argues that Torrance Unified proposed to implement Student's previous goals without developing new ones. Student contends that even if this were allowable, the IEP documents are unclear about which goals Torrance Unified was implementing. Student also contends Torrance Unified failed to develop goals at the March 24, 2022, April 19, 2022, and May 12, 2022, IEP team meetings.

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Torrance Unified contends Student did not provide any evidence or testimony that Torrance Unified should have revised the October 7, 2021, Los Angeles Unified IEP goals. Torrance Unified further contends Student did not prove it was required to revise the IEP goals with the March 24, 2022, April 19, 2022, and May 12, 2022, nonmeeting amendment IEPs.

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 Sch. Dist. v. Rowley* (1982) 458 U.S. 176, 201-204 (*Rowley*); *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386 [137 S.Ct. 988, 1000].)

An IEP is a written statement for each child with a disability that should include:

- the child's present levels of academic achievement and functional performance,
- a statement of measurable annual goals,
- a description of how the child's progress on the annual goals will be measured,
- a statement of special education and related services,
- any program modifications or supports necessary to allow the child to make progress,
- an explanation of the extent to which the child will not be educated with nondisabled children in general education classes, and
- the frequency, location, and duration of the services. (20 U.S.C. § 1414(d)(1)(A); Ed. Code, § 56345, subd (a).)

An IEP must include appropriate annual goals in all areas of need. The IEP must contain a statement of measurable annual goals designed to meet the student's needs that result from his disability to enable the student to be involved in and progress in the general curriculum and meet each of the child's other educational needs that result from his disability. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2); Ed. Code, § 56345, subd. (a)(2).) The IEP team develops measurable annual goals that address the student's areas of need and which the student has a reasonable chance of attaining within a year. (Ed. Code, § 56344; *Letter to Butler* (U.S. Dept. of Educ., Office of Special Education and Rehabilitative Services, Mar. 25, 1988); U.S. Dept. of Educ., Notice of Interpretation, Appendix A to 34 C.F.R., part 300, 64 Fed. Reg. 12,406, 12,471 (1999 regulations).) The purpose of goals is to assist the IEP team in determining whether the student is making progress in an area of need. As such, the IEP must also contain a statement of how the student's goals will be measured and when the parent will receive periodic reports on the student's progress towards his goals. (20 U.S.C. § 1414(d)(1)(A)(i)(III); 34 C.F.R. § 300.320(a)(3); Ed. Code, § 56345, subd. (a)(3).) The IEP must show a direct relationship between the present levels of performance, the goals, and the offered educational services. (Cal. Code Regs., tit. 5, § 3040, subd. (b).)

## ISSUE 2(a): THE MARCH 7, 2022, IEP

Torrance Unified held a 30-day interim placement review IEP team meeting for Student on March 7, 2022. As part of the meeting, Torrance Unified reviewed the IEP goals from Student's October 7, 2021, Los Angeles Unified IEP. Student's IEP team agreed the Los Angeles Unified goals continued to be appropriate. Student did not present any evidence or testimony that the October 7, 2021, Los Angeles Unified IEP goals were inappropriate or did not address Student's academic needs.

Student argued Torrance Unified could not implement the IEP goals from Student's Los Angeles Unified IEP without adopting the Los Angeles Unified IEP in its entirety. Student did not provide any legal authority to support his position. Student did not prove Torrance Unified denied Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year, by failing to develop goals to adequately address his academic needs at the March 7, 2022, IEP team meeting. Torrance Unified prevailed on Issue 2(a).

#### ISSUES 2(b), (c), AND (d): THE MARCH 24, 2022, APRIL 19, 2022, AND MAY 12, 2022, NONMEETING IEP AMENDMENTS

Torrance Unified did not develop new goals with the March 24, 2022, April 19, 2022, and May 12, 2022, nonmeeting IEP amendments. However, Student did not offer any testimony or evidence regarding the goals, their appropriateness, or Student's academic needs. Student did not offer evidence or testimony about how Torrance Unified should have changed the goals, or what new goals it should have offered. Student did not prove Torrance Unified denied Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year, by failing to develop goals to adequately address his academic needs. Torrance Unified prevailed on Issues 2(b), (c), and (d).

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ISSUE 3: DID TORRANCE UNIFIED DENY STUDENT A FAPE FROM FEBRUARY 10, 2022, THROUGH THE END OF THE 2021-2022 SCHOOL YEAR BY FAILING TO HAVE ALL REQUIRED TEAM MEMBERS PRESENT AT THE IEP TEAM MEETINGS?

#### ISSUE 3(a): THE MARCH 7, 2022, IEP TEAM MEETING

Student alleged in his complaint that the March 7, 2022, IEP team meeting was held without all required team members present, however, Student conceded in his closing brief that the March 7, 2022, IEP team meeting was legally compliant. For this reason, Torrance Unified prevailed on Issue 3(a).

#### NONMEETING IEP AMENDMENTS

In Issues 3(b), (c), and (d), Student contends Torrance Unified amended Student's IEP on March 24, 2022, April 19, 2022, and May 12, 2022, without holding an IEP team meeting and without Parent's consent. Student contends Parent would not have agreed to a nonmeeting amendment because Parent thought it was important to have the IEP team all together to discuss any changes.

Torrance Unified contends Student did not present any evidence or testimony that any IEP team member was missing from any IEP team meetings held during the 2021-2022 school year. Torrance argues the law provides for amending a student's IEP without an IEP team meeting if a district and a parent agree. Torrance Unified contends Parent agreed to the nonmeeting amendments.

A district's determination of whether a child has a disability, and the educational needs of the child, must be made by an IEP team consisting of a team of qualified professionals and the parent of the child. (20 U.S.C. § 1414(b)(4)(A).) The IDEA and Education Code require certain individuals attend every IEP team meeting, including:

- the parent of the child,
- not less than one regular education teacher of the child, if the child is or may be participating in the regular education environment,
- not less than one special education teacher, or where appropriate, not less than one special education provider of the child,
- a representative of the school district who is knowledgeable about the availability of the resources the district, is qualified to provide or supervise the provision of special education services and is knowledgeable about the general education curriculum,
- an individual who can interpret the instructional implications of evaluation results,
- at the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate, and
- whenever appropriate, the child with a disability. (20 U.S.C. § 1414 (d)(l)(B); Ed. Code, § 56341, subd. (b)(1)-(7).)

However, not every change to an IEP requires a meeting. The parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purpose of amending or modifying the child's current IEP. (34 C.F.R. § 300.324(a)(4).) Parental consent is required when the parties agree to amend an IEP without holding a meeting. (34 C.F.R. § 300.324(a)(4)(i).)

Here, this issue is if Parent agreed to amend the IEP without an IEP team meeting on March 24, 2022, April 19, 2022, and May 12, 2022. If Parent agreed to amend the IEP without a meeting on March 24, 2022, April 19, 2022, and May 12, 2022, then Torrance Unified was not required to have any IEP team members present.

### ISSUE 3(b) THE MARCH 24, 2022, IEP AMENDMENT

The March 24, 2022, IEP amendment was to increase Student's individual counseling to twice a week. The IEP amendment documents that Parent, Carberry, and Student's counselor agreed through email communications that a meeting was not needed to make the change. Carberry prepared the IEP amendment to increase Student's counseling to twice a week.

Neither Student nor Torrance Unified introduced any email communications regarding the March 24, 2022, IEP amendment. However, Carberry's testimony that Parent agreed to the amendment without a meeting was more persuasive than Parent's testimony. Carberry was able to recall details about the amendment and recalled speaking with Parent about the amendment prior to Parent consenting to the amendment. Parent was unable to recall any details about the March 24, 2022, IEP amendment. Parent's testimony that she understood the document to be a signature page for an IEP team meeting she attended was not persuasive because the first page of the document states the purpose of the meeting was to amend Student's IEP without a meeting.

The weight of the evidence showed that Carberry discussed the change with Parent before giving her a copy of the amendment to sign, and Parent agreed to amend the IEP without a meeting. Parent consented to the nonmeeting amendment

on April 12, 2022. Parent understood she had a right to have an IEP team meeting to discuss any changes to Student's IEP. Parent did not request an IEP team meeting to discuss Student's counseling services at any time.

Student did not prove the March 24, 2022, IEP amendment was not a nonmeeting IEP amendment that Parent consented to. Therefore, Torrance Unified prevailed on Issue 3(b).

### ISSUE 3(c) THE APRIL 19, 2022, IEP AMENDMENT

Torrance Unified held an IEP team meeting on March 22, 2022, to discuss Student's behaviors and academic performance. During the March 22, 2022, IEP team meeting, the team reviewed Student's behavior intervention plan. The IEP team agreed that the nonpublic agency that worked with Student would collaborate with the behavior specialist to develop strategies and appropriate staff responses to Student's behaviors. Those strategies and responses were listed in section four of the behavior intervention plan.

The April 19, 2022, IEP amendment updated section four of Student's behavior intervention plan. The IEP amendment states that the IEP team agreed a meeting was not needed to amend the behavior intervention plan. The IEP amendment lists the changes to the IEP as updating section four of Student's behavior intervention plan. This change corresponds with what the IEP team agreed to do during the March 22, 2022, IEP team meeting.

Carberry prepared the April 19, 2022, IEP amendment to include the updated behavior intervention plan as part of Student's IEP. Carberry discussed amending the IEP without a meeting with Parent before sending the amendment and updated behavior intervention plan home for Parent to review. Parent agreed to the amendment without a meeting.

Parent reviewed the updated behavior intervention plan and consented to the amendment except for a specific statement Torrance Unified claimed Student made. Parent had to read the updated behavior intervention plan to know the statement was included in section four of the behavior intervention plan. Parent read the April 19, 2022, IEP amendment closely enough to find one statement Torrance Unified claimed Student made that Parent disagreed with. The statement was on page six of the seven-page document. The purpose of the meeting, that the IEP team agreed a meeting was not necessary, was on page one of the document. Parent consented to the April 19, 2022, IEP amendment on May 17, 2022.

Parent's testimony regarding the April 19, 2022, IEP amendment was not persuasive. Parent testified that she was not aware that she had a right to an IEP team meeting to discuss the change, however, testified a few minutes earlier that she understood she had a right to an IEP team meeting to discuss the March 24, 2022, IEP amendment. Parent also claimed not to know what a behavior intervention plan was when discussing the April 19, 2022, IEP amendment, however, attended the March 22, 2022, IEP team meeting where the team reviewed Student's behavior intervention plan.

Therefore, Carberry's testimony that she discussed the amendment with Parent before sending home the amendment, and that Parent agreed to amend the IEP without

a meeting was more persuasive. Student did not prove the April 19, 2022, IEP amendment was not a nonmeeting IEP amendment that Parent consented to. Therefore, Torrance Unified prevailed on Issue 3(c).

### ISSUE 3(d) THE MAY 12, 2022, IEP AMENDMENT

The May 12, 2022, IEP amendment was to clarify the number of specialized academic instruction minutes Student would receive during extended school year. Carberry prepared the May 12, 2022, IEP amendment and emailed with Parent about the amendment before giving the amendment to Parent. Parent did not sign the May 12, 2022, amendment. Torrance Unified did not make any changes to Student's extended school year services pursuant to the May 12, 2022, nonmeeting IEP amendment. Student's IEP team discussed extended school year placement and services during the IEP team meeting on June 14, 2022, and agreed Student would not attend extended school year.

Parent did not recall any details about the May 12, 2022, IEP amendment, or if she received the IEP amendment. Therefore, Carberry's testimony that she emailed with Parent prior to giving her the May 12, 2022, IEP amendment and Parent agreed to the nonmeeting amendment, was more persuasive. Student did not prove the May 12, 2022, IEP amendment was not a nonmeeting IEP amendment that Parent consented to. Therefore, Torrance Unified prevailed on Issue 3(d).

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#### ISSUE 4: DID TORRANCE UNIFIED DENY STUDENT A FAPE FROM FEBRUARY 10, 2022, THROUGH THE END OF THE 2021-2022 SCHOOL YEAR BY FAILING TO PROVIDE PARENT WITH THE REQUIRED IEP TEAM MEETING NOTICES FOR ALL IEP TEAM MEETINGS?

Student contends Torrance Unified failed to send Parent an IEP team meeting notice for the March 22, 2022, March 24, 2022, April 19, 2022, and May 12, 2022, IEP team meetings. Student contends Parent was unaware of the significance of the March 22, 2022, IEP team meeting because she did not receive a notice with the names of participants and notification that she could bring her own expert. Student concedes there is not a meeting notice requirement when an IEP is amended without a meeting, as was the case on March 24, 2022, April 19, 2022, and May 12, 2022, however, contends there is a requirement that Parent agreed to the amendments without a meeting.

Torrance Unified contends Student did not produce any testimony or evidence to support the allegation that Parent was not provided a meeting notice for the March 22, 2022, IEP team meeting. Torrance Unified further contends an IEP team meeting notice was not required for the March 24, 2022, April 19, 2022, and May 12, 2022, IEP amendments because they were nonmeeting amendments.

The IDEA and state law delineate numerous procedural IEP team meeting and IEP document requirements. The school district must notify the parents of the IEP team meeting early enough to ensure that they will have an opportunity to attend and schedule the meeting at a mutually agreed upon time and place. (34 C.F.R. § 300.322(a).) The IEP

team meeting notice must indicate the purpose, time, and meeting location, who will be in attendance, and the right of parents to bring to the meeting persons who have knowledge or special expertise about their child. (34 C.F.R. § 300.322(b)(1)(i).)

Parent received a meeting notice for the March 22, 2022, IEP team meeting. Although there was not a meeting notice attached to the March 22, 2022, IEP, Parent was unequivocal in her testimony that she received a meeting notice. Additionally, Parent attended the March 22, 2022, IEP team meeting and did not provide any evidence or testimony that she was unable to meaningfully participate in the March 22, 2022, IEP team meeting. Student did not prove Torrance Unified failed to send an IEP meeting notice for the March 22, 2022, IEP team meeting.

The March 24, 2022, April 19, 2022, and May 12, 2022, IEP amendments were nonmeeting amendments. As discussed above, Parent agreed to amend Student's IEP on March 24, 2022, April 19, 2022, and May 12, 2022, without an IEP team meeting. Student did not prove Torrance Unified was required to send an IEP meeting notices for the nonmeeting IEP amendments on March 24, 2022, April 19, 2022, and May 12, 2022. Therefore, Torrance Unified prevailed on Issue 4.

#### ISSUE 5: DID TORRANCE UNIFIED DENY STUDENT A FAPE FROM FEBRUARY 10, 2022, THROUGH THE END OF THE 2021-2022 SCHOOL YEAR BY FAILING TO IMPLEMENT STUDENT'S BEHAVIOR SUPPORTS AND SPECIALIZED ACADEMIC INSTRUCTION?

Student contends in Issue 5(a) that Torrance Unified materially failed to implement Student's one-to-one behavior aide support and behavior supervision.

Student contends he was supposed to receive 360 minutes per month of behavior supervision, but Torrance only implemented 90 minutes in May 2022, and none in June 2022. Student further contends in Issue 5(b) that Torrance Unified denied him a FAPE by failing to implement the 180 minutes per day of specialized academic instruction Los Angeles Unified offered. Finally, Student contends Torrance Unified failed to implement all the specialized academic instruction it offered Student in the March 7, 2022, and March 22, 2022, IEPs.

Torrance Unified contends Student always had an aide or adult support for the entirety of his school day. Torrance Unified contends Student was never left without adult support. Torrance Unified further contends Student could not always access his specialized academic instruction because of his behavior. Torrance Unified contends Student did not provide any evidence that any failure to provide all Student's specialized academic instruction or behavior services resulted in a denial of FAPE.

Where a student alleges a FAPE denial based on an IEP implementation failure, the student must prove that the failure 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).) No statutory requirement of perfect adherence to the IEP exists, nor is there any reason rooted in the statutory text to view minor implementation failures as FAPE denials. (*Id.* at p. 821.) "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." (*Id.* at p. 815.)

## ISSUE 5(a): BEHAVIOR SUPPORT

Student's placement during the 2021-2022 school year while at Torrance Unified was general education with a full-time behavior aide, behavior supervision, and specialized academic instruction pursuant to the March 7, 2022, 30-day interim placement IEP. Torrance Unified offered Student a full-time behavior aide from a nonpublic agency and 360 minutes monthly of behavior supervision. Parent consented to that offer on March 9, 2022.

Torrance materially implemented those IEP services. Student had adult supervision with him for the entirety of his school day. Student offered into evidence the nonpublic agency behavior intervention service logs for February, March, and April 2022. The February, March, and April 2022 nonpublic agency behavior intervention service logs show what days Student had a nonpublic agency aide. There were two days in February, three days in March, and one day in April that Student did not have a nonpublic agency aide. Carberry explained that if the nonpublic agency aide did not show up Torrance Unified would provide aide support from its own staff. Carberry was Student's case manager and saw him daily. Carberry's testimony that Torrance Unified would provide aide support in the event of the nonpublic aide's absence was unrefuted.

Student's argument that he did not have aide support in May or June 2022 was based only on missing service logs. Student did not include the behavior intervention service logs from May or June 2022. Student did not provide any evidence or testimony that the missing behavior intervention service logs meant Student did not have nonpublic agency aide support for May or June 2022. Student did not offer any testimony that if the May and June 2022 service logs existed, they would have been included. Conversely, Student did offer into evidence the May 2022 nonpublic agency behavior supervision log

that shows the nonpublic agency provided 90 minutes of behavior supervision on May 2, 2022. Student did not provide any explanation as to why there was a behavior supervision log for May 2022 but not a behavior intervention service log.

Similarly, Student offered into evidence the nonpublic agency behavior supervision logs for February, March, April, and May 2022. Those logs show the nonpublic agency provided 150 minutes of behavior supervision in February 2022, 360 minutes in March, 360 minutes in April, and 90 minutes in May. Student did not offer into evidence the behavior supervision log for June 2022. Student did not offer any testimony about the behavior supervision, who provided the service, when it was provided, or how it was provided. Student relied solely on the service logs that appear incomplete. The supervision log for May 2022 is only partially filled out. The supervision logs were a chart that list the days of the week in the first row with corresponding dates of the month. The second row had a box that corresponded with the date the supervision service was provided, and the number of minutes provided. The May 2022 supervision log only listed dates for the first week in May, the rest of the chart that listed the days of the week was blank. Student did not provide any testimony about what the missing information meant.

Student did not prove Torrance Unified failed to materially implement the behavior supervision. Student did not prove Torrance Unified materially failed to implement his behavior services. Student relied on the absence of documentation to prove he did not receive all the offered behavior intervention and behavior supervision. However, the absence of information on nonpublic agency logs was not persuasive without corroborating testimony. Therefore, Torrance Unified prevailed on Issue 5(a).

## ISSUE 5(b): SPECIALIZED ACADEMIC INSTRUCTION

Torrance Unified offered Student 60 minutes per day of group specialized academic instruction in a separate setting at the March 7, 2022, IEP team meeting. Parent consented to those services on March 9, 2022. During the March 22, 2022, IEP team meeting, Torrance Unified increased Student's specialized academic instruction to 120 minutes daily, however, Parent did not consent to that amendment until April 12, 2022. Therefore, there are two different time periods to address during the 2021-2022 school year. The first is the 17 school days between March 9, 2022, and April 11, 2022, when Student should have received 60 minutes per day of specialized academic instruction. The second is the 46 school days between April 12, 2022, and June 16, 2022, when Student should have received 120 minutes per day of specialized academic instruction.

Torrance Unified conceded Student did not receive all his specialized academic instruction. However, Torrance Unified argued it made the specialized academic instruction available to Student, but he could not access it because of his behavior. Carberry provided specialized academic instruction to Student and kept service logs to track the specialized academic instruction. Those service logs show Student received at least 13.5 hours of specialized academic instruction between March 9, 2022, and April 11, 2022. During that time Student should have received 17 hours of specialized academic instruction. Student was only receiving an hour a day of specialized academic instruction therefore, he missed out on almost four days of instruction, or a quarter of the time he should have received. The evidence showed Torrance Unified materially failed to implement Student's specialized academic instruction from March 9, 2022, through April 11, 2022.

Between April 12, 2022, and June 15, 2022, there were 46 school days. During that time, Student either eloped from the learning center or would not transition to the learning center for most of his designated specialized academic instruction time. The specialized academic instruction service logs do not show a single day that Student received all 120 minutes of specialized academic instruction between April 12, 2022, and May 27, 2022. There were no services logs for June 2022. Carberry acknowledged the failure to provide all Student's specialized academic instruction, but excused the failure because Student was unavailable for instruction either because he eloped, or his behavior prevented him from accessing the services.

Torrance Unified implemented approximately 19 of the 92 hours of specialized academic instruction it offered Student. Torrance Unified failed to implement 73 hours of Student's specialized academic instruction. This failure amounts to Student missing more than three quarters of his specialized academic instruction. There was more than a minor discrepancy between the services Torrance Unified provided to Student and the services required in his IEP. The evidence showed Torrance Unified materially failed to implement Student's specialized academic instruction from April 12, 2022, through June 15, 2022. Student prevailed on Issue 5(b).

#### ISSUE 6: DID TORRANCE UNIFIED DENY STUDENT A FAPE IN THE JUNE 2022 AND OCTOBER 2022 IEPS BY FAILING TO INCLUDE GOALS TO ADEQUATELY ADDRESS STUDENT'S ACADEMIC NEEDS?

Student contends that for the 2022-2023 school year the reading, writing, and mathematics goals Torrance Unified offered in the June 14, 2022, IEP were inadequate because they did not progress from, and were substantially similar to the goals Los Angeles Unified offered Student the year prior. Student also contends the goals

Torrance Unified developed in June 2022 were based on a flawed psychoeducational evaluation, and therefore, were inappropriate. Student further contends because he did not make progress on the goals by the October 17, 2022, IEP team meeting, Torrance Unified should have devised a new approach, thus establishing that the goals offered were not adequate.

Torrance Unified contends the academic goals in the June 14, 2022, IEP were appropriate, and Student did not provide any evidence to the contrary. Torrance Unified further contends the October 17, 2022, IEP was a nonmeeting amendment to add 30 minutes a day of behavior support prior to the start of the school day. Therefore, the IEP goals were not reviewed. Torrance further contends Student did not provide any evidence the goals should have been reviewed.

## THE JUNE 2022 IEP

Torrance Unified held an IEP team meeting for Student on June 14, 2022, to review the three-year reassessment and update his IEP. Torrance Unified drafted five academic goals for Student. These included goals in reading, writing, listening and speaking, and mathematics. Student did not provide any evidence or testimony regarding how the goals were inadequate or what additional goals Torrance Unified should have offered.

Carberry drafted the academic goals based on her work with Student and the academic assessment she conducted as part of his three-year reassessment. Carberry's testimony that the goals were appropriate, addressed all Student's areas of need, and

that Parent did not have any questions about the academic goals was uncontroverted. Student did not prove Torrance Unified denied Student a FAPE by failing to include goals to adequately address his academic needs in the June 14, 2022, IEP.

## THE OCTOBER 2022 IEP

The October 17, 2022, IEP was a nonmeeting amendment to add an additional 30 minutes daily of adult support. Parent requested Student receive 30 additional minutes per day of adult supervision when Student was at school for breakfast before the school day. Parent consented to the October 17, 2022, nonmeeting amendment IEP on November 15, 2022. Student's goals were not addressed in the October 17, 2022, nonmeeting amendment. Parent did not request that Torrance Unified review Student's academic goals through the nonmeeting amendment. Nor did Student provide any documentary evidence, testimony, or legal authority that Torrance Unified should have addressed his academic goals for this nonmeeting amendment. Student did not prove Torrance Unified denied Student a FAPE with the October 17, 2022, IEP by failing to develop goals to adequately address his academic needs. Torrance Unified prevailed on Issue 6.

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ISSUE 7: DID TORRANCE UNIFIED DENY STUDENT A FAPE DURING THE 2022-2023 SCHOOL YEAR BY FAILING TO PROVIDE PARENT WITH THE REQUIRED IEP TEAM MEETING NOTICES FOR ALL IEP TEAM MEETINGS EXCEPT THE MAY 2023 AND JUNE 2023 IEP TEAM MEETINGS?

Student conceded in his closing brief that the procedural violation of not providing IEP team meeting notices during the 2022-2023 school year did not deny Student a FAPE. Consequently, Torrance Unified prevailed on Issue 7.

ISSUE 8: DID TORRANCE UNIFIED DENY STUDENT A FAPE AT THE OCTOBER 17, 2022, IEP TEAM MEETING BY FAILING TO HAVE ALL REQUIRED TEAM MEMBERS PRESENT?

Student conceded in his closing brief that he did not provide sufficient evidence to support the allegation that the procedural violation of failing to have all required IEP team members present at the October 17, 2022, IEP team meeting denied Student a FAPE. Consequently, Torrance Unified prevailed on Issue 8.

ISSUES 9(a) AND (b): DID TORRANCE UNIFIED DENY STUDENT A FAPE DURING THE 2022-2023 SCHOOL YEAR BY FAILING TO IMPLEMENT STUDENT'S SPECIALIZED ACADEMIC INSTRUCTION AND EDUCATIONALLY RELATED INTENSIVE COUNSELING SERVICES?

Student conceded in his closing brief that Torrance Unified implemented Student's educationally related intensive counseling services. Consequently, Torrance Unified prevailed on Issue 9(b).

The 2022-2023 school year at issue in Issue 9(a) was governed by the June 14, 2022, IEP that Parent consented to on August 12, 2022. Student's June 14, 2022, IEP offered him 360 minutes per week of specialized academic instruction in a small group setting. Student contends Torrance Unified failed to implement all 360 minutes per week of specialized academic instruction during the 2022-2023 school year. Specifically, Student contends Torrance Unified failed to implement 4,279 minutes of specialized academic instruction which is a material failure and denied Student a FAPE. Student contends the loss of specialized academic instruction likely had a negative impact on his academic performance.

Torrance Unified contends it implemented most, if not all, of Student's specialized academic instruction during the 2022-2023 school year.

Carberry provided specialized academic instruction to Student for the 2022-2023 school year. Carberry could not recall exactly what Student's schedule was, but she was fairly certain from looking at the specialized academic instruction logs that Student received 30 minutes of specialized academic instruction at 10:00 a.m. and again at 12:00 p.m. Student's specialized academic instruction service logs showed Student received an average of 60 minutes a day, four times a week, between September 2022 and March 2023. This amounted to 240 minutes per week, rather than the 360 minutes per week the IEP called for.

Student did not have the specialized academic instruction service logs for April, May, or June 2023. Student assumed the specialized academic instruction Torrance Unified provided would have been the same as it provided earlier in the year. However, Student did not provide any evidence or testimony regarding Student's specialized academic instruction for April, May, or June 2023.

Student proved during the 27 school weeks between September 2022 through March 2023, Torrance Unified failed to provide approximately one third of his specialized academic instruction. This failure falls significantly short of the services Torrance Unified offered Student. (*Van Duyn*, 502 F.3d 811, 822.) Student proved Torrance Unified denied him a FAPE during the 2022-2023 school year by failing to implement his specialized academic instruction. Student prevailed on Issue 9(a).

## CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

### ISSUE 1(a):

Torrance Unified denied Student a FAPE when he transferred into the district by failing to offer comparable services to his last IEP.

Student prevailed on Issue 1(a).

### ISSUE 1(b):

Torrance Unified did not deny Student a FAPE when he transferred into the district by failing to consult with Parent about the services offered.

Torrance Unified prevailed on Issue 1(b).

#### ISSUE 2(a):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to develop goals to adequately address his academic needs during the IEP team meeting on March 7, 2022.

Torrance Unified prevailed on Issue 2(a).

#### ISSUE 2(b):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to develop goals to adequately address his academic needs during the IEP team meeting on March 24, 2022.

Torrance Unified prevailed on Issue 2(b).

#### ISSUE 2(c):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to develop goals to adequately address his academic needs during the IEP team meeting on April 19, 2022.

Torrance Unified prevailed on Issue 2(c).

ISSUE 2(d):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to develop goals to adequately address his academic needs during the IEP team meeting on May 12, 2022.

Torrance Unified prevailed on Issue 2(d).

ISSUE 3(a):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to have all required team members present at the IEP team meeting on March 7, 2022.

Torrance Unified prevailed on Issue 3(a).

ISSUE 3(b):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to have all required team members present at the IEP team meeting on March 24, 2022.

Torrance Unified prevailed on Issue 3(b).

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### ISSUE 3(c):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to have all required team members present at the IEP team meeting on April 19, 2022.

Torrance Unified prevailed on Issue 3(c).

### ISSUE 3(d):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to have all required team members present at the IEP team meeting on May 12, 2022.

Torrance Unified prevailed on Issue 3(d).

### ISSUE 4:

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to provide Parent with the required IEP team meeting notices for all IEP team meetings.

Torrance Unified prevailed on Issue 4.

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#### ISSUE 5(a):

Torrance Unified did not deny Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to implement Student's behavior supports.

Torrance Unified prevailed on Issue 5(a).

#### ISSUE 5(b):

Torrance Unified denied Student a FAPE from February 10, 2022, through the end of the 2021-2022 school year by failing to implement Student's specialized academic instruction.

Student prevailed on Issue 5(b).

#### ISSUE 6:

Torrance Unified did not deny Student a FAPE in the June 2022 and October 2022 IEPs by failing to include goals to adequately address Student's academic needs.

Torrance Unified prevailed on Issue 6.

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#### ISSUE 7:

Torrance Unified did not deny Student a FAPE during the 2022-2023 school year by failing to provide Parent with the required IEP team meeting notices for all IEP team meetings except the May 2023 and June 2023 IEP team meetings.

Torrance Unified prevailed on Issue 7.

#### ISSUE 8:

Torrance Unified did not deny Student a FAPE at the October 17, 2022, IEP team meeting by failing to have all required team members present.

Torrance Unified prevailed on Issue 8.

#### ISSUE 9(a):

Torrance Unified denied Student a FAPE during the 2022-2023 school year by failing to implement Student's specialized academic instruction.

Student prevailed on Issue 9(a).

#### ISSUE 9(b):

Torrance Unified did not deny Student a FAPE during the 2022-2023 school year by failing to implement Student's educationally related intensive counseling services.

Torrance Unified prevailed on Issue 9(b).

## REMEDIES

Administrative Law Judges have broad latitude to fashion appropriate equitable remedies for the denial of a FAPE. (*School Comm. of Burlington v. Dept. of Educ.* (1985) 471 U.S. 359, 370 (*Burlington*); *Parents of Student W. v. Puyallup School Dist., No. 3* (9th Cir. 1994) 31 F.3d 1489, 1496 (*Puyallup*)). In remedying a FAPE denial, the student is entitled to relief that is “appropriate” in light of the purposes of the IDEA, specifically providing Student with a FAPE which emphasizes special education and related services to meet Student’s unique needs. (20 U.S.C. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3) (2006); *Burlington, supra*, 471 U.S. 359, 374.

School districts may be ordered to provide compensatory education or additional services to a student who has been denied a FAPE. (*Puyallup, supra*, 31 F.3d at pg. 1496.) The authority to order such relief extends to hearing officers. (*Forest Grove School Dist. v. T.A.* (2009) 557 U.S. 230, 243-244, fn. 11 [129 S.Ct. 2484].) These are equitable remedies that courts and hearing officers may employ to craft “appropriate relief” for a party. (*Puyallup, supra*, 31 F.3d at pg. 1496.) An award of compensatory education need not provide “day-for-day compensation.” (*Id.* at p.1497.) An award to compensate for past violations must rely on an individualized assessment, just as an IEP focuses on the individual student’s needs. (*Reid v. Dist. of Columbia* (D.C. Cir. 2005) 401 F.3d 516, 524.) The award must be fact specific. (*Ibid.*)

Student prevailed on Issues 1(a), 5(b), and 9(a), and is entitled a remedy for Torrance Unified’s failure to offer comparable services to his Los Angeles Unified IEP and failure to materially implement Student’s specialized academic instruction. Torrance Unified failed to offer Student comparable specialized academic instruction for 21 school days when Student transferred to Torrance Unified on February 7, 2022, through

when Parent consented to the 30-day interim placement review IEP on March 9, 2022. The evidence further established Torrance Unified failed to materially implement Student's specialized academic instruction for three and a half hours between March 9, 2022, and April 11, 2022, for 46 school days from April 12, 2022, and June 15, 2022, and for 27 weeks during the 2022-2023 school year.

Student requested compensatory education and an independent educational evaluation. The appropriateness of the June 2022 psychoeducational report was not an issue for hearing. Accordingly, an independent educational evaluation is not an appropriate remedy for the FAPE denials found in this Decision. However, compensatory education is an appropriate remedy.

There are four different time periods that Student proved Torrance Unified failed to offer or implement the correct amount of specialized academic instruction. The first, February 7, 2022, through March 9, 2022, Torrance Unified offered Student 60 minutes per day when it should have offered 900 minutes per week, or 180 minutes per day. During that period, Student missed 42 hours of group specialized academic instruction.

The second period was between March 9, 2022, and April 11, 2022. Student missed three and a half hours of group specialized academic instruction.

The third period was 46 school days from April 12, 2022, through June 15, 2022. Torrance Unified should have implemented 120 minutes per day of specialized academic instruction in a group setting, or 92 hours. Instead, Torrance Unified implemented approximately 19 hours of group specialized academic instruction. Thus, Student missed 73 hours of group specialized academic instruction.

The fourth period was 27 weeks during the 2022-2023 school year. Student should have received 90 minutes of specialized academic instruction, four days a week. However, Torrance Unified only implemented, on average, 60 minutes, four days a week. Thus, Student missed two hours a week for 27 weeks, or 54 hours of group specialized academic instruction.

In total, Torrance Unified failed to implement 172.5 hours of group specialized academic instruction. However, Student failed to provide any evidence or testimony regarding what amount of compensatory education Student is owed or what Student's needs require. Nevertheless, the evidence established Torrance Unified deprived Student of educational benefit through its failure to implement a substantial amount of specialized academic instruction that Student's IEP team deemed necessary for Student to receive a FAPE. As such, Student is entitled to compensatory education but not an hour for hour award. If Torrance Unified implemented the 172.5 hours owed, it would have been in a group setting. Torrance Unified fell significantly short in providing specialized academic instruction to Student throughout the regular school year so it is equitable to order Torrance Unified provide the services through a nonpublic agency. The compensatory education Student will receive will be individual. Therefore, it is appropriate to award Student half, or 87 hours, of compensatory education from a nonpublic agency.

## ORDER

1. Torrance Unified must fund 87 hours of individual academic tutoring from a certified nonpublic agency of Parent's choice.

2. Within 30 days of the date of this Decision, Torrance Unified must give Parent a list of nonpublic agencies it has contracts with to provide compensatory services.
3. If Parent selects a nonpublic agency Torrance Unified does not have a contract with, Torrance Unified must establish direct payment to the certified nonpublic agency Parent selected.
4. The hours will be available until the end of the 2024-2025 regular school year and will be forfeited thereafter.
5. All other 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 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings