

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

CASE NO. 2023090321

PARENTS ON BEHALF OF STUDENT,

V.

RINCON VALLEY UNION ELEMENTARY SCHOOL DISTRICT.

DECISION

DECEMBER 22, 2023

On September 12, 2023, Parents on behalf of Student filed a complaint with the Office of Administrative Hearings, called OAH, naming Rincon Valley Union Elementary School District, called Rincon. Administrative Law Judge Paul H. Kamoroff heard this matter by videoconference on October 31 and November 1, 2, 7, 8, 9, and 14, 2023.

Attorneys Sheila C. Bayne and Valerie S. Weiss represented Parents and Student. Parent attended all hearing days on Student's behalf. Attorneys Jennifer E. Nix and Matejka M. Handley represented Rincon. Julie Promes, Rincon's Director of Special Education, attended all hearing days on Rincon's behalf.

At the parties' request, OAH continued the matter to December 11, 2023, for written closing briefs. The matter was submitted and OAH closed the record on December 11, 2023.

## ISSUES

1. Did Rincon deny Student a free appropriate public education, called FAPE, during the 2022-2023 school year, pursuant to an April 17, 2023, individualized education program, called IEP, by failing to offer adequate goals in:
  - a. occupational therapy goals one and two;
  - b. speech and language goals one and two;
  - c. physical therapy goals one and two; and
  - d. classroom goals one, two, and three?
2. Did Rincon deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer a home applied behavior analysis therapy program?
3. Did Rincon deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer sufficient intensive individual services in the form of a one-to-one aide?
4. Did Rincon deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer a placement with neuro-typical peers to the maximum extent possible?

5. Did Rincon deny Student a FAPE during the 2022-2023 school year, by failing to offer Parent training in speech and language and behavior?
6. Did Rincon deny Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to allow Parents meaningful participation in the IEP process?

## 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 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).) Student, as the petitioning party, had the burden of proof for each issue. 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).)

## THE STUDENT

Student was five years old and in kindergarten at the time of hearing. Student resided with Parents within Rincon's geographic boundaries at all relevant times. Student was eligible for special education and related services under the categories of orthopedic impairment, autism, intellectual disability, and speech and language impairment. Student's disabilities were the result of a chromosomal abnormality that caused serious global delays. Student was sweet, did not demonstrate behavior problems, and was easily redirected by school staff. However, because of his disabilities, Student did not speak, communicated only by gestures or grunts, walked with an unsteady gait, required pictures or prompts to respond to one-step instructions, was not toilet trained, and did not independently interact with peers or adults.

## BACKGROUND

Santa Rosa City Schools and Sonoma County Office of Education, jointly called Sonoma, initially found Student eligible for special education in June 2021. Sonoma assessed Student and developed an IEP that placed Student in a special day

class preschool program with various services. Parents consented to the IEP. In September 2022, Student began attending school in Cypress-Fairbanks Independent School District in Houston, Texas. The Texas school district assessed Student and developed an IEP in December 2022, which placed Student in a special day class preschool program with various services. Parents consented to the IEP.

In January 2023, Student moved back to California and enrolled in Rincon. On January 23, 2023, Rincon developed an interim IEP for Student that placed Student in a special day class preschool program with various services, comparable to the Texas and Sonoma programs. Rincon's preschool programs were operated in conjunction with Rincon Valley Partnership, a consortium of school districts that included Rincon. Parents consented to the interim IEP.

Rincon conducted a 30-day review of Student's interim IEP on February 22, 2023. Both parents and school staff noted Student's progress in the interim placement, and the February 2023 IEP offered a similar educational program to the interim IEP. Parents consented to this IEP.

Rincon convened an annual IEP team meeting for Student on April 17, 2023. In the time between the February 2023 IEP and this meeting, Student made steady strides in the preschool program. As a result, the April 2023 IEP offered a program for Student that closely resembled the February 2023 IEP for the remainder of the 2022-2023 school year.

Looking ahead to the 2023-2024 school year, for kindergarten, Rincon suggested placing Student in a special day class. While Parents believed the special day class was appropriate for preschool, they expressed a desire for Student to be placed in a regular education classroom for the entirety of the school day during kindergarten.

In response to Parent's request, Rincon agreed to hold an addendum IEP team meeting in May 2023. The purpose of this meeting was to allow Parents time to observe various kindergarten classrooms, including those in general education; for Student to undergo an intake assessment for kindergarten at Manzanita Elementary School, part of Rincon's public school system; and for Rincon's inclusion specialist to observe Student.

On May 30, 2023, Rincon held the addendum IEP team meeting as planned. Parents had observed various school placements but continued their request for full inclusion during kindergarten. Student attempted but could not complete any part of the kindergarten intake assessment. Rincon's inclusion specialist observed Student over several days and participated in the addendum IEP team meeting.

Despite Parents' request, Rincon did not agree to place Student in a regular education kindergarten classroom. It offered to increase Student's time in general education, called mainstreaming, to 20 percent of the school day but believed allocating 80 percent of the day in a special day class was necessary to ensure Student received a FAPE.

Parents disagreed with the IEP offer for the 2023-2024 school year, desiring Student to be placed in a regular education kindergarten. However, they did not oppose the educational program for the 2022-2023 school year, during which Student completed preschool in the program outlined in both the February 2023 and April 2023 IEPs.

In summer 2023, Parents attempted to enroll Student in a regular education kindergarten class at Manzanita Elementary School for the upcoming 2023-2024 school year. Rincon denied this request, and Parents declined to allow Rincon to implement an IEP unless Student was placed in a regular education kindergarten setting.

As of the hearing, Student had not attended any school during the 2023-2024 school year.

Parents were primarily focused on Student's placement for the 2023-2024 school year, specifically in kindergarten. However, in September 2023, Student's attorneys filed a complaint that solely addressed concerns related to the 2022-2023 school year, focusing on the preschool period. Despite Parents' concerns about Student's placement for the 2023-2024 school year, the complaint only encompassed matters concerning the prior 2022-2023 school year. As a result, the matter heard and decided upon did not address Student's placement for the 2023-2024 school year.

## ISSUE 1: THE APRIL 17, 2023, IEP GOALS

Student's first issue complains Rincon denied him a FAPE during the 2022-2023 school year by failing to offer adequate goals in the April 17, 2023, IEP, in the areas of

- occupational therapy goals one and two,
- speech and language goals one and two,
- physical therapy goals one and two, and
- classroom goals one, two, and three.

Rincon responds it offered adequate goals in those areas.

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.)

In general, a child eligible for special education must be provided access to specialized instruction and related services that 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 Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; [102 S.Ct. 3034]; *Endrew F. v. Douglas County School Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

For each area in which a special education student has an identified need, the IEP team must develop measurable annual goals that are based upon the child's present levels of academic achievement and functional performance, and which the child has a reasonable chance of attaining within a year. (Ed. Code, § 56345.) The purpose of annual goals is to permit the IEP team to determine whether the pupil is making progress in an area of need. (Ed. Code, § 56345, subd. (a).) The IEP team need not draft IEP goals in a manner that the parents find optimal, as long as the goals are objectively measurable. In *Capistrano Unified School Dist. v. S.W., et al.* (9th Cir. 2021) 21 F.4th 1125, 1133 (*Capistrano*), the court stated that the IDEA required IEP goals to target a student's needs, but the IDEA did not require an IEP to contain every goal from which a student might benefit. Moreover, a school district is not required to develop goals for areas

covered by the general curriculum for which the student needs only accommodations and modifications. (Fed. Regs., Appendix A, Part 300 - Assistance to States for the Education of Children with Disabilities (1999), discussing language also contained in the 2004 reauthorization of the IDEA at 20 U.S.C. § 1414(d)(1)(A)(i)(II).)

## DEVELOPMENT OF THE APRIL 17, 2023, IEP

Rincon held Student's annual IEP team meeting on April 17, 2023. The IEP team included

- Parents,
- Rincon Valley Partnership program manager Miriam Fendler,
- Rincon Valley Partnership program specialist Teresa Knapp,
- Rincon licensed physical therapist Bodil Wibe,
- Rincon occupational therapist Carol Petersen-Villasenor,
- Rincon Director of Special Education Julie Promes,
- Rincon adapted physical education teacher Jay Juhl,
- Student's special day class teacher Diane Miller,
- Rincon education specialist Patricia Schirle,
- Rincon licensed speech-language pathologist Megan Mackellar, and a
- school principal.

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

Rincon licensed physical therapist Wibe met with and discussed draft physical therapy goals with one parent prior to the IEP. Although Wibe did not attend the April 17, 2023, IEP team meeting, she addressed Parents' concerns prior to the IEP team meeting, and had her data reported to the IEP team by Rincon's adapted physical education teacher who was qualified to report on Student's gross motor needs. Wibe attended the addendum IEP team meeting held for Student on May 30, 2023.

Each member of the IEP team was familiar with Student, having taught, observed, or provided services to him while at Rincon.

The IEP team reviewed Student's present levels of performance, his strengths and weaknesses, and Parents' concerns. Student's teacher reported that Student was appropriately placed in the special day class preschool. Student required a small, structured classroom that was quiet and free from distractions. Student's speech-language pathologist updated the IEP team on Student's progress. Student was nonverbal and used gestures to communicate and gain attention in class. Student's occupational therapist reported that Student had developed more fine motor skills. Student's physical therapist and adapted physical education teacher reported significant progress in Student's gross motor skills. Student could now self-ambulate inside and outside of the classroom and navigate some stairs. Overall, Student met, or made meaningful progress, towards each of his six prior annual goals, including for

- balance,
- ambulation,
- gross motor skills,
- motor planning,

- social-emotional functioning,
- visual motor skills, and
- functional communication.

The IEP team agreed Student's skills and confidence had progressed at school. The IEP team identified five areas of need in participation, task completion, fine motor skills, bilateral coordination, and communication. Based upon this review, the IEP team formulated 10 new goals in

- prewriting,
- fine motor skills,
- bilateral coordination,
- expressive language,
- receptive language,
- gross motor skills, and
- classroom/task completion.

To meet those goals, Rincon offered various accommodations and the following services:

- 180 minutes daily of specialized academic instruction in a special day class, from April 17 to June 30, 2023.
- 1,400 minutes weekly of specialized academic instruction in a special day class, from July 1, 2023, to April 16, 2024, with mainstreaming at lunch and recess and additional times trialed in the beginning of the school year.
- 1,200 minutes yearly of pull-out, group speech and language services.

- 600 minutes yearly of pull-out, group occupational therapy.
- 600 minutes yearly of pull-out, group adapted physical education.
- 90 minutes monthly of physical therapy.

Parents did not consent to the offered IEP, because they wanted Student placed in a regular education classroom for the upcoming 2023-2024 school year. Although Rincon denied this request, throughout both the April 17 and May 30, 2023, IEP team meetings, Parents had ample opportunities to participate in formulating, questioning, or requesting different or additional goals for Student. However, Parents did not voice any concerns regarding the adequacy of the goals despite having the opportunity to do so.

## THE OCCUPATIONAL THERAPY GOALS

Student complains occupational therapy goals one and two were inadequate. Petersen-Villasenor, a registered occupational therapist with substantial experience in serving disabled children, developed the occupational therapy goals. Beginning in January 2023, Petersen-Villasenor provided Student push-in occupational therapy services each week during the 2022-2023 school year, meaning the services were provided in a small group in the special day class. She reviewed Student's assessments, collected data regarding Student's progress towards prior annual goals, and observed him in class each week.

Petersen-Villasenor reported Student's present levels of performance in fine motor skills during the April 2023 IEP team meeting. Student

- had trouble with balance,
- was easily distracted by visual and auditory input,

- needed frequent prompting,
- had difficulty holding a writing device, and
- required adaptive scissors to cut.

Based on Student's present needs and input from the IEP team, including Parents, the IEP team proposed two occupational therapy goals.

The first occupational therapy goal was in prewriting. The baseline identified Student's present level of prewriting functioning, including his ability to use a three-to-four fingered grasp. Student could not copy lines or words. The annual goal called for Student to increase his prewriting and fine motor skills by holding onto a writing device without cues, using a functional grip to copy lines and circles, in three of four opportunities.

Student's second occupational therapy goal was for scissor skills. The baseline identified Student's present level of functioning, including his need for assistance for holding onto adaptive scissors, ability to snip at the edge of paper, and inability to cut lines. The annual goal called for Student to increase his bilateral motor coordination, by holding scissors correctly with correct elbow position for cutting a quarter-inch straight line for four inches, in three of four opportunities.

Both occupational therapy goals included three measurable, short-term objectives and identified Student's occupational therapist and teaching staff as responsible for helping Student achieve the goals.

Petersen-Villasenor testified in support of the occupational therapy goals. Petersen-Villasenor was a licensed occupational therapist for Rincon Valley Partnership with 23 years' experience serving disabled children. She was Student's occupational therapist during the 2022-2023 school year, directly provided Student services, and

observed him weekly in class. Her expertise was evident in the competent formulation of goals based on careful data collection and classroom observations. Each goal was well-defined, measurable, appropriately ambitious, and achievable within a year. Testimony from Petersen-Villasenor strongly supported the appropriateness of these goals, considering Student's unique needs. There was no evidence presented to demonstrate the inadequacy of these goals or the necessity for alternative ones to provide Student a FAPE.

## THE SPEECH AND LANGUAGE GOALS

Student complains that speech and language goals one and two in the April 17, 2023, IEP were inadequate. The speech and language goals were crafted by MacKellar, a speech and language pathologist with over 50 years' experience serving disabled children, in collaboration with the IEP team and Parents.

Speech and language goal one was for expressive language. The baseline and goal were based on recent data and formulated by MacKellar, with input from Parents and school staff. Student was nonverbal and only used grunts, gestures, and two-hand signs to communicate. The goal sought to increase Student's ability to communicate and required Student to use four signs or symbols, for "help," "want," "yes," and "no," in four of five trials, using low-technology devices like pictures or verbal prompts, measured during a two-week trial period.

The second speech and language goal was for receptive language. MacKellar formulated the baseline and goal based upon recent data, with input from the IEP team,

including Parents. Student could not point to a desired item, as measured over five trials. The goal called for Student to, when given a choice of four pictures, point to a desired item or activity, in four of five trials, measured over a two-week period.

Both speech and language goals included three short-term objectives and identified school staff, including the speech-language pathologist, responsible for implementing the goals.

MacKellar credibly testified in support of the speech and language goals during the hearing. MacKellar's extensive experience with disabled children was evident in the formulation of clear, measurable goals tailored to Student's abilities. She was knowledgeable of Student's unique needs, as she had reviewed his recent assessments, observed him weekly in class, and directly provided Student speech and language services during the 2022-2023 school year. MacKellar's testimony persuasively showed the speech and language goals were understandable, measurable, and appropriately ambitious. Her testimony reinforced the suitability of these goals, showing they were achievable within a year and aligned with Student's needs. Student provided no evidence to substantiate his claim that these goals were inadequate for Student to receive a FAPE.

## THE PHYSICAL THERAPY GOALS

Student complains physical therapy goals one and two were inadequate. Wibe, a licensed physical therapist with 20 years' experience treating disabled children, developed the physical therapy goals after careful review of assessments, direct observation of Student, and directly providing him services during the 2022-2023

school year. The goals aimed to enhance muscle strength, coordination, and motor planning, tailored to Student's abilities. Wibe was familiar with Student's unique needs and credibly testified in support of the physical therapy goals during the hearing.

The first physical therapy goal was for improving muscle strength, coordination, and motor planning. Student could ascend steps on a playground slide by holding onto both sides of the rail and could go down the slide in a sitting position, with assistance. The goal sought to increase Student's independence on the playground by ascending and descending the slide's stairs with one hand, and going down the slide independently, in three of four trials, over two consecutive weeks.

The second physical therapy goal was for improving muscle strength, coordination, and balance. Student could self-ambulate and maintain balance when lifting his leg three inches or less over a hurdle. The goal sought for Student to increase muscle strength and balance while walking on campus, with a proper gait and to maintain balance when stepping over a nine-inch hurdle, using alternating feet, in four of five trials over two consecutive school weeks.

Each physical therapy goal included a baseline, three short-term objectives, and identified the school's physical therapist as responsible for implementing the goals. Wibe observed Student's progress towards the goals following the April 2023 IEP, and persuasively testified the goals were appropriately ambitious and achievable within one year. Wibe's testimony emphasized the achievability and appropriateness of these goals within a year. Student presented no evidence to suggest inadequacy or the need for different goals to afford Student a FAPE.

Student did not provide any evidence supporting this issue or challenging Wibe's experience or testimony. Furthermore, Student's attorneys did not call an expert witness in any field of related services and did not pose any questions to Wibe during her testimony at the hearing.

## THE CLASSROOM GOALS

Student's complaint alleges that classroom goals, one, two, and three, were inadequate. Student's special education teacher Miller developed the classroom goals in collaboration with the IEP team, including Parents. The classroom goals targeted various aspects of classroom activities like social interaction, task completion, and adherence to classroom routines.

The first classroom goal was for social interaction and imitation. As of April 2023, Student was not imitating teacher-directed movement. The goal sought for Student to imitate teacher-directed action with one verbal cue, in four of five trials, measured over a two-week period.

The second classroom goal was in task completion. The goal called for Student to complete three tasks during an individualized work time during class, with one visual prompt and two verbal prompts, over a two-week period, measured daily by the special day class teacher.

The third classroom goal was for classroom routines and transitions. The goal required Student to follow the classroom schedule using a picture schedule, with one visual prompt and two verbal prompts, during trials over a two-week period. Rincon used a question mark as a temporary placeholder for the number of trials within the two-week period in their documentation. The intention was to replace this placeholder

with a specified number of trials, typically four out of five trials, in the finalized IEP documents. Rincon overlooked making this replacement, as it planned to do in the IEP document. However, this was a minor defect that did not invalidate an otherwise appropriate goal. Moreover, had this small defect resulted in the goal being unmeasurable, it would be a procedural defect as evidence showed the goal was otherwise appropriate for Student. A procedural violation results in a denial of FAPE only if it impedes the student's right to a FAPE, significantly impedes the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or causes a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2).); see *W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484.)

Student failed to prove the minor issue of using a question mark placeholder in the goal significantly impacted its measurability or resulted in depriving Student of educational benefits. There was no proof this minor defect impeded Student's ability to receive a FAPE or significantly hindered Parents' involvement in decision-making regarding Student's education.

The goal was devised by qualified school staff who were well-versed in Student's unique needs. It addressed an identified area of deficit and was deemed suitable given Student's circumstances. Rincon thoroughly discussed this goal with Parents during the April 17, 2023, IEP team meeting. Parents actively participated in formulating and reviewing the goal during this meeting and did not raise concerns about its appropriateness or measurability. They comprehended the goal's objectives, implementation plan, and evaluation process. As a result, the evidence failed to

establish the minor technical flaw of using a question mark as a placeholder for the number of trials during which Student was required to be successful to determine whether he met classroom goal three in one year's time denied Student a FAPE.

Each classroom goal included a baseline, three short-term objectives, and identified the special day class teacher as responsible for implementing the goals. The adequacy of these goals was supported by testimony from qualified educators, including credentialed special education teacher Miller and Rincon Valley Partnership program specialist Knapp, who supported their measurability, achievability, and appropriateness of the goals in light of Student's circumstances. Considering Student's unique needs, these goals were adequate, and there was no indication of necessity for additional or different goals to ensure Student received a FAPE.

The evidence presented, including witness testimony and documentation, revealed the goals offered during the April 2023 IEP team meeting were meticulously formulated by experienced professionals. The goals were carefully designed by qualified staff with input from Parents, and would have ensured Student's progress in various areas of identified need.

During the seven-day hearing, Student called only two witnesses, Parent and Abbe Irshay, E.D., who were not employed by the school district. Parent's testimony did not align with the issues alleged. Before or during the April 17, 2023, IEP team meeting, qualified teachers and staff meticulously reviewed each goal with Parents. Parents were present at the IEP team meeting and participated in the goal-setting process. Moreover, Parents expressed satisfaction with the formulated IEP goals during the IEP team meeting.

Crucially, neither Parents nor any IEP team member requested additional or different goals in any area. Parents demonstrated an understanding of each goal, including the one marked with a question mark placeholder under classroom goal three, and comprehended how these goals would be implemented and evaluated.

During the hearing, Parent did not articulate any discernable concerns regarding any of the IEP goals. She did not recommend additional or different goals in any area. This reinforced the adequacy of the goals and the understanding that the goals were thoroughly discussed and understood by all involved parties during the April 2023 IEP team meeting.

Consequently, Student relied solely on the testimony of Dr. Irshay to critique the IEP's speech and language, occupational therapy, and classroom goals. Dr. Irshay had no opinion regarding the physical therapy goals. Dr. Irshay was a principal for 11 years at elementary and middle schools in another school district. She was experienced in facilitating IEP team meetings as an administrator, but did not hold a special education teaching credential, and had never taught or provided related services to students with disabilities. She never independently developed IEP goals, nor implemented goals and services in any area of special education or related services. She was not a licensed or credentialed school psychologist, general education teacher, special education teacher, speech-language pathologist, physical therapist, or occupational therapist. She was not qualified to provide an expert opinion on the appropriateness of any goals for this matter.

Dr. Irshay's criticism of the IEP goals was minor or incorrect. For example, she incorrectly opined that speech and language goal one was not measurable because it failed to include a trial period or identify what low-technology device Student would use

to help achieve the goal. A plain reading of the goal showed it would be measured in four to five trials over a two-week period. Also, the goal identified pictures as the low-technology device Student would use to help achieve the goal. Had Dr. Irshay been familiar with Student or his educational program, she would have known that Student used a picture exchange communication system, a low-technology augmentative and alternative communication tool that included an arrangement of pictures, to help him communicate in class.

Dr. Irshay lacked any personal interaction, assessment, or observation of Student, and was not acquainted with Student's unique needs. Consequently, she was not equipped with the firsthand knowledge or qualifications to provide opinions regarding Student's disabilities or associated needs. Moreover, her testimony about her experience with drafting IEP goals was inconsistent, initially stating she had not independently drafted them but later suggesting she had, particularly in areas where she lacked the necessary qualifications or expertise.

Furthermore, Dr. Irshay provided misleading information about her resume and work history. Although she testified her resume was current, it stated her employment as a school principal for the Las Virgenes Unified School District was from 2011 until the present, which would have been November 2023. However, she had not served as a school principal since 2018, after being removed by the school district, and she struggled to clarify her employment status since then.

Due to these reasons, Dr. Irshay's testimony lacked credibility, and the court did not give weight to her statements.

Student failed to present any credible testimony or documentary evidence of any sort, such as data, reports, or an assessment, to show the IEP goals were inadequate. Student also failed to present any evidence regarding a remedy for this issue, or any issue. It was unclear throughout the hearing what Parents wanted as it related to Student's complaint.

In sum, there was no persuasive evidence demonstrating the goals were inadequate or that Student was denied a FAPE based upon the goals.

For the foregoing reasons, Student failed to show by a preponderance of the evidence that Rincon denied him a FAPE during the 2022-2023 school year by failing to offer adequate goals in the April 17, 2023, IEP, in occupational therapy goals one and two, speech and language goals one and two, physical therapy goals one and two, and classroom goals one, two, and three.

## ISSUE 2: THE HOME APPLIED BEHAVIOR ANALYSIS THERAPY PROGRAM

Student's second issue complains Rincon denied him a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer a home applied behavior analysis therapy program. Rincon responds that Student did not require a home applied behavior analysis therapy program to receive a FAPE.

In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider, when appropriate, strategies, including positive behavioral interventions, and supports to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i); Ed. Code, § 56341.1, subd. (b)(1).)

Applied behavior analysis is a specialized and intensive psychological behavior modification therapy sometimes utilized for children with autism manifesting significant behavioral challenges, including self-harm. Student failed to substantiate the need for an applied behavior analysis therapy program during the hearing. Student did not present any evidence explaining the nature of applied behavior analysis therapy, its relevance to Student's specific behavioral issues, or why applied behavior analysis therapy was necessary to provide Student a FAPE.

Crucially, there was a lack of evidence describing the applied behavior analysis process or any behavioral service. Additionally, there was an absence of specifics outlining the behavioral problems necessitating intervention or how applied behavior analysis therapy would address these concerns. Furthermore, no evidence was put forth to support the necessity of in-home services.

The sole testimony during the hearing related to this issue came from a brief statement by Parent indicating she was unaware of Student's entitlement to a home-based applied behavior analysis therapy program until engaging Student's attorneys. However, Parent did not provide reasoning behind her belief that Student should receive this therapy following her interaction with the attorneys.

In summary, Student failed to present any substantiating data, assessments, or witness testimonies pertinent to Student's need for an applied behavior analysis therapy program. As the petitioner, Student bore the burden of proof for all matters raised but failed to present a case for this issue during the hearing.

For the foregoing reasons, Student failed to show by a preponderance of the evidence that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer a home applied behavior analysis therapy program.

### ISSUE 3: THE ONE-TO-ONE AIDE

Student's third issue complains that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer sufficient intensive individual services in the form of a one-to-one aide. Rincon responds that Student did not require an individual aide to receive a FAPE.

Related services required to assist a student with exceptional needs to benefit from special education may include an individual aide. (Ed. Code, § 56363.)

Rincon placed Student in a highly structured, self-contained special day classroom for the 2022-2023 preschool year. This classroom accommodated a maximum of 12 students and was staffed by a classroom teacher and two full-time adult aides. Moreover, it was customary for therapy providers, such as occupational therapists and speech-language pathologists, to provide group push-in services within this classroom setting, further increasing the adult-to-student ratio in the classroom. This model allowed Student to effectively engage in the classroom environment. Student showed meaningful progress towards or met the goals set forth in each IEP during his time in preschool, demonstrating advancements in classroom skills, gross and fine motor abilities, and communication.

Throughout the seven-day hearing, 11 witnesses testified, none of whom supported the claim that Student needed an individual aide during the 2022-2023 school year. Witnesses included

- Student's special day class teacher Miller,
- physical therapist Wibe,
- occupational therapist Petersen-Villasenor,
- speech-language pathologist MacKellar,
- educational specialist Schirle,
- program specialists Knapp, Fendler, and Vickery, along with
- Rincon's Director of Special Education Promes, Parent, and Dr. Irshay.

Except for Dr. Irshay, who did not testify regarding this issue, these witnesses encompassed school staff who were directly familiar with Student and his unique needs. For example, Fendler and Knapp were Student's case carriers and familiar with his assessments, present data, and unique needs. Miller taught Student daily and was knowledgeable regarding his classroom behaviors, skills, and needs. Wibe, Petersen-Villasenor, and MacKellar each directly provided Student-related services, routinely observed him, and were knowledgeable about his unique needs. Their collective testimony indicated that, despite being low-functioning, Student did not display behavioral issues, engage in self-harm, or require escalated support. The existing high adult-to-student ratio in the preschool special day class adequately supported Student's needs and facilitated access to his educational program.

Importantly, no one, including Parent, testified Student required an individual aide during the 2022-2023 school year in the preschool setting. Moreover, there was no suggestion from Parents or any IEP team member during the April 2023 IEP team

meeting that Student required an individual aide for preschool. Student bore the burden of proof for this issue and failed to present any documentation or testimony to support his need for an individual aide during the 2022-2023 school year.

In his closing brief, Student incorrectly references Miller and Parent's testimony, claiming they had suggested to Rincon administration the necessity of extra adult support in Student's special day class during the April 17, 2023, IEP team meeting. No such discussion occurred. Rather, during the February 2023 IEP team meeting, Parent expressed a concern regarding the level of staffing in Miller's special day class. When Student began attending this placement in January 2023, there were nine students and two full-time adults in the classroom – a teacher and an aide – along with intermittent related services' providers. After the January 2023 IEP team meeting, two more students joined the classroom, leading Parents to worry about the adequacy of the adult-to-student ratio. Miller shared this concern. To rectify this, Rincon added a second full-time adult aide in Miller's classroom. Parents were amenable to this solution and consented to the February 2023 IEP. Neither Parents nor Miller made any requests for additional adult support to be added to Student's special day class after the February 2023 IEP team meeting.

The contention that Student required an individual aide stemmed from Student's attorneys' misunderstanding of Parents' concerns. During the April and May 2023 IEP team meetings, Parents sought a placement for Student in a regular education kindergarten for the following 2023-2024 school year. Parents believed that for this less-structured environment with a higher student-to-adult ratio, an individual aide would assist Student in accessing the regular education setting. However, Parents did

not desire an individual aide for the preschool special day class, nor was one necessary for Student to access his educational program. As the 2023-2024 placement was not an issue in this case, the appropriateness of providing Student an individual aide for a regular education kindergarten setting was not deliberated upon or decided in this matter.

For the foregoing reasons, Student failed to show by a preponderance of the evidence that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer sufficient intensive individual services in the form of a one-to-one aide.

#### ISSUE 4: PLACEMENT WITH NEURO-TYPICAL PEERS

Student 's fourth issue complains that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer a placement with neuro-typical peers to the maximum extent possible. Rincon responds that it provided Student an appropriate placement during preschool.

School districts are required to provide each special education student with a program in the least restrictive environment, with removal from the regular education environment occurring only when the nature or severity of the student's disabilities is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2); Ed. Code, §§ 56031, 56033.5, 56040.1, subd. (b), 56342, subd. (b).)

When determining whether a placement is the least restrictive environment for a child with a disability, four factors must be evaluated and balanced:

1. the educational benefits of full-time placement in a regular classroom;
2. the non-academic benefits of full-time placement in a regular classroom;
3. the effect the presence of the child with a disability has on the teacher and children in a regular classroom; and
4. the cost of placing the child with a disability full-time in a regular classroom. (*Sacramento City Unified School Dist. v. Rachel H.* (9th Cir. 1994) 14 F.3d 1398, 1404.

Rincon did not deny Student a FAPE by not offering an inclusive preschool program during the 2022-2023 school year. Student failed to present any evidence that suggested he needed anything other than the preschool special day class offered by Rincon to receive FAPE in the least restrictive environment. The evidence indicated that an inclusive preschool setting would not have been able to meet Student's need for a highly structured and therapeutic placement. Rincon, in line with Student's previous school districts in Sonoma and Texas, offered Student continued placement in a special day class preschool classroom for the entire day, a placement to which Parents consented.

Rincon's staff confirmed that Student would not have been able to effectively learn in a regular education preschool setting. Testimony from Miller, MacKellar, Vickery, and Knapp supported this, highlighting that Student's extensive language needs and limited ability to interact with typically developing peers made an inclusive preschool unsuitable. The contrast between Student's need for substantial adult

support, engagement in solitary play, and limited interaction with peers, versus the independent, collaborative, and imaginative engagement of students in the inclusion program, further substantiated this placement offer.

Additionally, Parents did not request during the April 17, 2023, IEP team meeting to change Student's preschool placement. In fact, testimony from Parent explicitly stated Parents' desire not to move Student from the preschool special day class placement. Other testimony, including from Miller and Vickery, echoed this sentiment, indicating Parents' satisfaction with the existing preschool special day class placement.

Although Miller opined that Student should receive increased mainstreaming opportunities in the upcoming 2023-2024 school year, for his kindergarten placement, she explicitly stated that during preschool, even with additional support such as an individual aide, Student was not prepared for inclusion in a regular education class. Consistent with all witnesses addressing this issue, as of the April 17, 2023, IEP offer, Miller strongly supported continuing Student's special day class preschool program for the remainder of the 2022-2023 school year.

In his closing brief, Student incorrectly asserts that Dr. Irshay advocated for increased inclusion for Student during preschool. In fact, Dr. Irshay did not express an opinion about Student's preschool placement and lacked the qualifications to do so. She did not possess credentials or experience in any special education domain, including classroom placement, and had no firsthand knowledge of Student as she had never met or observed him in any capacity. Student's closing brief attempted to graft evidence onto an issue where none existed.

For the foregoing reasons, Student failed to prove by a preponderance of evidence that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer a placement with neuro-typical peers to the maximum extent possible.

## ISSUE 5: PARENT TRAINING IN SPEECH AND LANGUAGE AND BEHAVIOR

Student's fifth issue complains Rincon denied Student a FAPE, during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer Parent training in speech and language and behavior. Rincon responds Parents did not require training for Student to receive a FAPE.

Related services required to assist a student with exceptional needs to benefit from special education may include parent training. (Ed. Code, § 56363, subd. (b)(11).) Parent training means assisting a parent in understanding the special needs of the student, providing the parent with information about child development, and helping the parent acquire necessary skills to facilitate the implementation of the student's IEP. (34 C.F.R. § 300.34(c)(8)(i)-(iii).)

Rincon did not deny Student a FAPE by not offering Parents training in speech and language or behavior in the April 17, 2023, IEP. There was no evidence presented indicating that Parents needed training for Student to access his special education. There was no evidence presented that Student was deprived an educational benefit because of an alleged failure to provide such training. Additionally, uncontested evidence established Parents never requested this kind of training. While a parent is

not required to request a service to establish the service was necessary, in this case the absence of any request by Parents for training indicates it more than likely was not required.

As part of his IEP, Rincon provided Student speech and language services each week by an experienced speech-language pathologist. Student made steady progress toward his goals and additional speech and language services were not recommended by anyone during the April or May 2023 IEP team meetings, or during the hearing. The goals fell under the purview of the school's speech-language pathologist, and the IEP did not describe Parents as a party responsible for implementing the goals. In sum, no evidence established Student required additional speech and language services, including Parent training in speech and language, to receive a FAPE.

Regarding Parent behavior training, no evidence demonstrated that Student exhibited behaviors hindering his educational access or that of others. Thus, Student did not need behavior support services to receive a FAPE.

Testimony from Parent confirmed that no one, including Parents, had suggested that Parents required training in speech and language or in behavior for Student to receive a FAPE. Parent's testimony regarding this issue was a brief statement expressing that she was unaware of Parents' entitlement to training until engaging Student's attorneys. However, Parent did not provide reasoning behind her belief that Parents required training following her interaction with the attorneys.

Moreover, testimony from Miller and Knapp highlighted that the Rincon Valley Partnership preschool program offered parent training through the Family Connections program, a free, parent resource program provided monthly by Rincon

Valley Partnership. The program included parent education activities and field trips. Information regarding these programs was available online and communicated to Parents through flyers in Student's backpack. The Texas school district, approximately four months earlier, had deliberated on and declined to recommend additional parent training for Parents beyond what its version of a Family Connections program offered. Texas proposed similar resources - district meetings and information specific to Student's autism. Given no change in circumstances or request from Parents, there was no cause for Rincon to reconsider such additional parent training services.

For the foregoing reasons, Student failed to prove by a preponderance of the evidence that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to offer Parents training in speech and language and behavior.

## ISSUE 6: PARENT PARTICIPATION

Student's sixth issue complains Rincon denied Student a FAPE, during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to allow Parent meaningful participation in the IEP process. Rincon responds that Parents fully participated in the development of Student's educational program.

A school district is required to conduct not just an IEP team meeting, but a meaningful IEP team meeting. (*W.G. v. Board of Trustees of Target Range School Dist. No. 23 Missoula, Mont.* (9th Cir. 1992) 960 F.2d 1479, 1485 (*Target Range*), superseded in part by statute on other grounds.) Participation must be more than mere form; it must be meaningful. (*Deal v. Hamilton County Board of Educ.* (6th Cir. 2004) 392 F.3d 840, 858 [citations omitted] (*Deal*).) A school cannot independently develop an IEP,

without meaningful participation, and then present the IEP to the parent for ratification. (*Target Range, supra*, 960 F.2d at p. 1484.) A school district that predetermines the child's program and does not consider parents' requests with an open mind has denied the parents' right to participate in the IEP process. (*Deal, supra*, 392 F.3d at p. 858.)

An IEP need not conform to a parent's wishes to be sufficient or appropriate. (*Shaw v. District of Columbia* (D.D.C. 2002) 238 F.Supp.2d 127, 139 [IDEA did not provide for an "education ... designed according to the parent's desires."].) A school district is not required to place a student in a program preferred by a parent, even if that program will result in greater educational benefit to the student. (*Ibid.*) A school district has the right to select the program offered, as long as the program is able to meet the student's needs, and the district is ultimately responsible for ensuring a FAPE is offered. (*Letter to Richards* (U.S. Dept. of Education, Office of Special Education Programs (OSEP) January 7, 2010).) The Ninth Circuit has held that while the school district must allow for meaningful parental participation, it has no obligation to grant the parent a veto over any individual IEP provision. (*Ms. S. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1131.)

Both Parents actively participated during the April 17, 2023, IEP team meeting. Before and during the meeting, they engaged with service providers to help shape goals, accommodations, and services. Their active involvement continued during the IEP team meeting, with their concerns being noted in the IEP document. Each member of the IEP team meticulously reviewed their respective areas of expertise, frequently pausing to seek input or address any questions Parents had.

Parent's testimony illustrated Parents had no discernable concerns regarding their ability to participate during the April 17, 2023, IEP team meeting, or addendum IEP team meeting held on May 30, 2023, outside of Rincon's denial of their request to place Student in a regular education kindergarten.

All witnesses, including Parent, testified affirming that Parents were actively engaged participants during the April 17, 2023, IEP meeting. This comprehensive testimony corroborates that there was no denial of FAPE. At this meeting, Parents made one specific request that was not agreed upon by Rincon – for placement in a regular education class during Student's kindergarten year. Rincon responded promptly to this request, and in a manner that ensured Parents' participation. Upon receiving this new request, Rincon paused the IEP team meeting to ensure appropriate staff were available and allowed Parents time to visit a regular kindergarten class. This measure was taken to enable Parents to provide their complete input to the IEP team concerning their request.

It is noteworthy that Parents had not previously raised this particular request, even during discussions with Knapp regarding kindergarten placement before the meeting. Promes detailed the subsequent actions taken in response to Parents' request, including communication with Parents, arranging an observation by Rincon's inclusion specialist, inviting relevant staff to the IEP team meeting, collecting information regarding Student's readiness for kindergarten, and organizing Parent visits to a regular kindergarten class.

Rincon's inclusion specialist attended the IEP team meeting on May 30, 2023, specifically to discuss programming associated with placement in a regular education classroom. During the continuation of the IEP team meeting, Rincon carefully considered

the input from all involved parties and proposed a plan for Student to spend 20 percent of the school day in regular education for the 2023-2024 school year. However, Parents declined this proposal.

Following the IEP team meetings, Promes made further attempts to address Parents' concerns and arrange discussions. However, when Parents did not engage in these discussions, Promes provided a written notice outlining the reasons behind Rincon's denial of Parents' placement request.

The evidence highlights Rincon's proactive and repeated efforts to ensure full participation by Parents in the IEP process and thorough consideration of their placement concerns. Parent testified Parents' concerns did not involve Rincon hindering their participation in the IEP meeting, but rather Rincon's disagreement with their request for placement in a regular education kindergarten class. While Rincon was obligated to ensure meaningful parental participation and did so, it was not required to grant Parents a veto over its placement offer. Parents made clear their desire for Student to be placed full time in regular education for kindergarten. However, Rincon's denial of this request does not mean the school district failed to allow Parents meaningful participation in the IEP process.

Student failed to show by a preponderance of the evidence that Rincon denied Student a FAPE during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to allow Parents meaningful participation in the IEP process.

## FRIVOLOUSNESS OF CLAIMS

Every issue in this case lacked merit, as evidenced by Parent's statements, Student's failure to amend the complaint to align with Parents' concerns, Student's failure to present evidence regarding the issues, and Student's failure to address remedies during the hearing.

## PARENTS' CONCERNS AND FAILURE TO AMEND

Parent's statements and testimony during the hearing revealed that the issues raised in this matter did not align with the actual concerns Parents had regarding Student's educational program or Student's unique needs. Parents' sole concern was Student's classroom placement for the 2023-2024 school year. Yet, Student's complaint failed to address any issues pertaining to the 2023-2024 school year. Each issue in Student's complaint was explicitly about the 2022-2023 school year, as clearly delineated in OAH's September 29, 2023, Order Determining Complaint Sufficient.

Although OAH's Order permitted Student to amend his complaint if the Order Determining Complaint Sufficient did not align with Student's needs or Parents' concerns, Student's attorneys did not pursue any amendments, and showed unfamiliarity with this Order during the hearing. Moreover, OAH's October 24, 2023, Order Following Prehearing Conference reiterated and clarified the issues, yet it was apparent at the commencement of the hearing that Parents did not agree with the issues alleged for the matter. Accordingly, OAH provided Student another opportunity to amend the complaint and to continue the due process hearing. Despite being given

another opportunity to amend the complaint to align with Parents' concerns, Student's attorneys declined, opting to proceed with the hearing as scheduled. Hence, Student's attorneys knowingly pursued claims that were not aligned with Parents' concerns.

## FAILURE TO SUBMIT EVIDENCE

During the hearing, Student attempted to submit only two documents to support his case, an IEP that was also included in Rincon's evidence, and Dr. Irshay's resume, which contained false information. Consequently, Student failed to submit any documentary evidence, including data, reports, or assessments of any kind, to support any issues pleaded in this matter.

Furthermore, among the 11 witnesses called to testify across the seven-day hearing, nine were school employees who staunchly did not align with or support Student's assertions. Student did not provide any evidence discrediting their qualifications or testimony. The remaining two witnesses were Parent, who also did not substantiate Student's claims, and Dr. Irshay. Dr. Irshay solely offered an opinion on sub-issues 1(a), (b), and (d). However, Dr. Irshay lacked expertise in any special education field and, as determined herein, was not credible.

In sum, Student did not provide even a trace of evidence to substantiate issues 2, 3, 4, 5, or 6, nor did he present credible evidence for issues 1(a), (b), or (d). Particularly regarding issue 1(c) concerning the physical therapy goals, Student's attorneys neglected to offer any evidence or even question the school's physical therapist when she testified about those goals. This failure to present evidence, despite having ample opportunity, underscored the lack of validity in Student's claims.

## FAILURE TO ADDRESS REMEDIES

Parent's testimony further revealed that the remedies requested in the complaint did not relate to Student or to Parents' incurred expenses or desired services. For instance, although the complaint sought \$120,000 for educational expense reimbursement, Parent testified Parents had not incurred any educational expenses, and expressed confusion when questioned about it by Rincon during the hearing. Similarly, Parent was confused by Rincon's questions regarding the type and quantity of compensatory education services sought. Although the complaint requested \$180,000 for compensatory education services, no witness provided any details regarding the type, cost, or quantity of such services.

Despite OAH's directive in the Order Following Prehearing Conference mandating evidence to support claims for reimbursement and compensatory education, Student failed to present any evidence to substantiate any remedy for any issue. Student failed to present documentation or witness testimony of any sort to describe what Student required to remedy any issue alleged in the complaint. This failure to produce evidence to support Student's requested remedies underscored the lack of diligence by Student's attorneys in prosecuting this matter and the frivolous nature of the claims raised and remedies requested in the complaint.

Student's attorneys' failure to amend the complaint despite knowing it did not align with Parents' concerns or Student's needs, along with their failure to submit evidence supporting the claims and comply with OAH's Order for evidence to support requested remedies, indicates that the pursuit of this case by Student's attorneys was knowingly baseless and wrongful. (Gov. Code, § 11455.30, subd. (a); Code Civ. Proc., § 128.5, subd. (b)(2).)

## 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), (b), (c), AND (d):

Rincon did not deny Student a FAPE during the 2022-2023 school year, by failing to offer adequate goals at the April 17, 2023, IEP team meeting, in

- a) occupational therapy goals one and two,
- b) speech and language goals one and two,
- c) physical therapy goals one and two, and
- d) classroom goals one, two, and three.

Rincon prevailed on Issue 1(a) through (d).

### ISSUE 2:

Rincon did not deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer a home applied behavior analysis therapy program.

Rincon prevailed on Issue 2.

### ISSUE 3:

Rincon did not deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer sufficient intensive individual services in the form of a one-to-one aide.

Rincon prevailed on Issue 3.

### ISSUE 4:

Rincon did not deny Student a FAPE during the 2022-2023 school year, pursuant to an April 17, 2023, IEP, by failing to offer a placement with neuro-typical peers to the maximum extent possible.

Rincon prevailed on Issue 4.

### ISSUE 5:

Rincon did not deny Student a FAPE, during the 2022-2023 school year, by failing to offer Parent training in speech and language and behavior.

Rincon prevailed on Issue 5.

### ISSUE 6:

Rincon did not deny Student a FAPE, during the 2022-2023 school year, pursuant to the April 17, 2023, IEP, by failing to allow Parents meaningful participation in the IEP process.

Rincon prevailed on Issue 6.

## ORDER

All of Student's claims 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.

Paul H. Kamoroff

Administrative Law Judge

Office of Administrative Hearings