

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CASE NO. 2022100859

PARENTS ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL DISTRICT.

DECISION

June 22, 2023

On October 28, 2022, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Newport-Mesa Unified School District. On December 1, 2022, OAH granted Student leave to amend his complaint. On January 3, 2023, OAH granted Student leave to amend his complaint a second time. OAH continued the matter for good cause on February 13, 2023.

Administrative Law Judge, or ALJ, Linda Dowd heard this matter by videoconference on April 25, 26, and 27, and May 2, 3, 4, and 9, 2023.

Attorneys Tim Adams and Madeline Knutson represented Student. Parent attended all hearing days on Student's behalf. Student did not attend the hearing.

Attorney Dan Harbottle represented Newport-Mesa. Newport-Mesa's Director of Special Education Resolution, Juliana Sauvao, attended on all hearing days on Newport-Mesa's behalf.

At the parties' request, OAH continued the matter to May 30, 2023, for written closing arguments. The record was closed, and the matter was submitted on May 30, 2023.

ISSUES

Free appropriate public education is called FAPE. Individualized education program is called IEP.

1. Did Newport-Mesa deny Student a FAPE in the IEP developed on January 29, 2020, and May 20, 2020, by:
 - a. failing to offer goals to appropriately address:
 - i. behavior,
 - ii. academics,
 - iii. attention,
 - iv. executive function,
 - v. problem-solving,
 - vi. social communication skills,
 - vii. pragmatics,
 - viii. sensory processing,
 - ix. auditory processing deficits,

- x. self-advocacy,
 - xi. self-monitoring, and
 - xii. frustration tolerance,
 - b. failing to offer services to appropriately address the areas of need identified in Issue 1(a), and
 - c. failing to offer a placement appropriate to provide the services identified in Issue 1(b)?
- 2. Did Newport-Mesa deny Student a FAPE by failing to convene an annual IEP team meeting in January 2021?
- 3. Did Newport-Mesa deny Student a FAPE by failing to have an IEP in place for the beginning of the 2021-2022 school year?
- 4. Did Newport-Mesa deny Student a FAPE in the IEP developed on January 28, 2022, by:
 - a. failing to offer goals to appropriately address:
 - i. communication,
 - ii. fine motor,
 - iii. writing,
 - iv. balance,
 - v. self-regulation,
 - vi. sensory processing,
 - vii. anxiety,
 - viii. impulsivity,
 - ix. organization,

- x. focus,
- xi. attention,
- xii. ability to follow directions,
- xiii. task avoidance,
- xiv. pragmatics,
- xv. self-advocacy,
- xvi. reading,
- xvii. mathematics,
- xviii. executive functioning,
- xix. social skills,
- xx. motor planning,
- xxi. auditory processing deficits,
- xxii. self-monitoring, and
- xxiii. problem solving,

- b. failing to offer services to appropriately address the areas of need identified in Issue 4(a), and
- c. failing to offer a placement appropriate to provide the services identified in Issue 4(b)?

5. Did Newport-Mesa deny Student a FAPE in the IEP developed on October 24, 2022, by:

- a. failing to offer goals to appropriately address:
 - i. communication,
 - ii. daily living skills,
 - iii. task avoidance,
 - iv. elopement,

- v. verbal stereotypy,
 - vi. focus,
 - vii. attention,
 - viii. social skills,
 - ix. motor skills,
 - x. academics,
 - xi. attention to task,
 - xii. adaptive living skills,
 - xiii. independence,
 - xiv. behavior,
 - xv. verbal learning,
 - xvi. following directions,
 - xvii. verbal protesting,
 - xviii. adaptive functioning,
 - xix. sensory processing,
 - xx. anxiety,
 - xxi. transitions,
 - xxii. self-regulation, and
 - xxiii. community living,
- b. failing to offer services to appropriately address the areas of need identified in Issue 5(a), and
 - c. failing to offer a placement appropriate to provide the services identified in Issue 5(b)?

6. Did Newport-Mesa deny Student a FAPE in the IEP developed on December 5, 2022, by:

a. failing to offer goals to appropriately address:

- i. communication,
- ii. daily living skills,
- iii. task avoidance,
- iv. elopement,
- v. verbal stereotypy,
- vi. focus,
- vii. attention,
- viii. social skills,
- ix. motor skills,
- x. academics,
- xi. attention to task,
- xii. adaptive living skills,
- xiii. independence,
- xiv. behavior,
- xv. verbal learning,
- xvi. following directions,
- xvii. verbal protesting,
- xviii. adaptive functioning,
- xix. sensory processing,
- xx. anxiety,
- xxi. transitions,
- xxii. self-regulation, and
- xxiii. community living,

- b. failing to offer services to appropriately address the areas of need identified in Issue 6(a), and
- c. failing to offer a placement appropriate to provide the services identified in Issue 6(b)?

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 third grade at the time of the hearing. Parents resided within Newport-Mesa's geographic boundaries at all relevant times. Parents withdrew Student from Newport-Mesa in March 2017, and Student has not attended a Newport-Mesa school since.

STATUTE OF LIMITATIONS AND TOLLING AGREEMENT

Subject to limited exceptions, a request for a due process hearing must be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. (20 U.S.C. § 1415(f)(3)(C), (D); Ed. Code, § 56505, subd. (I).)

Student filed his case on October 28, 2022, but pursued claims commencing January 29, 2020, based upon an August 2022 tolling agreement with Newport-Mesa. Newport-Mesa did not object to Student's claims commencing January 29, 2020. There is no explicit prohibition on tolling agreements for claims arising under the IDEA or related sections of the California Education Code, and the hearing proceeded on Student's claims as agreed to by the parties. (*Student v. Savanna School Dist.* (November 16, 2017) OAH Case No. 2017100226 (Order Granting in Part and Denying in Part District's Partial

Motion to Dismiss); but see *Student v. Long Beach Unified School Dist.* (2019) OAH Case No. 2018050736; orders and decisions rendered in special education due process hearing proceedings may be cited as persuasive but not binding authority in subsequent proceedings. (Cal. Code Regs., tit. 5, § 3085).)

ISSUE 1: DID NEWPORT-MESA DENY STUDENT A FAPE IN THE IEP DEVELOPED ON JANUARY 29, 2020, AND MAY 20, 2020?

Student argues Newport-Mesa denied him a FAPE by failing to make an offer of goals, services, and placement at the January 29, 2020, IEP team meeting, and that the offer it did make at the May 20, 2020, IEP team meeting, did not meet Student's needs. Student also argues Newport-Mesa did not draft goals in all areas of need and the ones it did draft were not appropriate. Student argues the services Newport-Mesa offered were inadequate to meet Student's needs and that it failed to offer a permanent one-to-one aide. Finally, Student argues he required a nonpublic school placement.

Student alleged in his complaint Newport-Mesa failed to offer services to appropriately address 12 delineated areas and failed to offer a placement appropriate to provide the services Student deemed necessary. Student did not allege Newport-Mesa denied him a FAPE because it would have provided the services offered virtually from May 20, 2020, through the end of the 2019-2020 school year, and the 20 days of extended school year 2020. Newport-Mesa provided virtual services to all its students during this period due to the COVID-19 pandemic.

While Student argued at hearing and in his closing brief that he could not access virtual services, Student did not raise this issue in the complaint or at the prehearing conference. Further, Newport-Mesa did not consent at any time to amending the issues

for hearing. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i) [the party requesting the hearing may not raise issues at the due process hearing that were not raised in the complaint unless the other party agrees].) Consequently, this Decision does not address any alleged FAPE violation regarding virtual services.

Newport-Mesa contends the goals, services, and placement in the January 29, 2020, and May 20, 2020, IEP offered Student a FAPE. Newport-Mesa contends the goals it developed addressed all Student's areas of needs and the services it offered were sufficient to meet Student's needs. Newport-Mesa further argues the least restrictive environment for Student was the autism-specific applied behavior analysis classroom with specialized academic instruction and participation in general education for nonacademic activities. Newport-Mesa contends the May 20, 2020, IEP team meeting, was a continuation of the January 29, 2020, IEP team meeting, and Student did not allege that Newport-Mesa denied him a FAPE by not making an offer at the January 29, 2020, IEP team meeting, nor did he allege the ultimate FAPE offer was untimely. Newport-Mesa further argues Student did not allege any FAPE violation due to school closures because of the COVID-19 pandemic.

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 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; *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).)

Student was first eligible for special education on November 4, 2016, as a student with autism and a speech or language impairment. Student attended a Newport-Mesa preschool program during the 2016-2017 school year. Parents disenrolled Student from Newport-Mesa in May 2017. Student has not attended a Newport-Mesa school since preschool during the 2016-2017 school year.

Student was a parentally placed private school student during the 2019-2020 school year. Student attended Aliso Viejo Christian School with a one-to-one applied

behavior analysis aide. Newport-Mesa conducted a triennial assessment of Student in January 2020, in preparation for Student's January 29, 2020, IEP team meeting. Newport-Mesa used formal and informal assessment measures as well as observed Student in his private school placement. Newport-Mesa drafted a proposed IEP that was reviewed during the January 29, 2020, and May 20, 2020, IEP team meetings.

Newport-Mesa developed 11 goals for Student, offered specialized academic instruction in a special day class with an applied behavior analysis focus, occupational therapy, speech and language services, and a temporary 60-day one-to-one aide.

ISSUE 1(a): GOALS

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).) 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; *Letter to Butler* (Office of Special Education and Rehabilitation Services March 25, 1988); Notice of Interpretation, Appendix A to 34 C.F.R., part 300, Question 4 (1999 regulations).)

The IEP team need not draft IEP goals in a manner that the parents find optimal, as long as the goals are objectively measurable. (*Bridges ex rel. F.B. v. Spartanburg County School Dist. Two* (D.S.C., Sept. 2, 2011, No. 7:10-CV-01873-JMC) 2011 WL 3882850 [the use of percentages tied to the completion of discrete tasks was an appropriate way to measure student progress].) "But there is no specific form of measurement required by statute or caselaw." (*Capistrano Unified Sch. Dist. v. S.W.*,

21 F.4th 1125, 1134 (9th Cir. 2021), cert. denied, (*Capistrano*), Cf. R.P. ex rel. C.P. v. Prescott Unified Sch. Dist., 631 F.3d 1117, 1122 (9th Cir. 2011) (goal measurement can be “based on teachers’ subjective observations”). “Thus, goals could be measured ordinarily (e.g., no improvement/some improvement/ significant improvement), quantitatively, or in some other way.” (*Capistrano, supra*, 21 F.4th at p. 1134.)

The IEP must include appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved, and a statement of how the student’s progress toward the goals will be measured. (*Jessica E. v. Compton Unified School Dist.* (C.D.Cal., May 2, 2017, No. CV16-04356-BRO (MRWx)) 2017 WL 2864945; see also 20 U.S.C. § 1414(d)(1)(A)(i)(II) & (III); Ed. Code, § 56345, subd. (a)(2) & (3).) An examination of the goals in an IEP is central to the determination of whether a student received a FAPE: “[W]e look to the [IEP] goals and goal achieving methods at the time the plan was implemented and ask whether these methods were reasonably calculated to confer ... a meaningful benefit.” (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149 (*Adams*).)

The IDEA requires IEP goals to target a student’s needs but does not require an IEP to contain every goal from which a student might benefit. (34 C.F.R. § 300.137; *Capistrano, supra*, 21 F.4th at p. 1133.) 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. (34 C.F.R. § 300, Appendix A – 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).)

Newport-Mesa developed 11 goals for Student,

- three communication goals,
- one fine motor goal,
- two behavior goals,
- three social emotional goals, and
- two academic goals.

The communication goals addressed spatial directions, verbs, and “wh” questions. The fine motor goal addressed letter placement. The behavior goals addressed compliance and following directions. The social emotional goals addressed pragmatics and recess routine. The academic goals addressed comprehension and writing.

Student alleged in the complaint that Newport-Mesa failed to offer goals to appropriately address

- behavior,
- academics,
- attention,
- executive function,
- problem-solving,
- social communication skills,
- pragmatics,
- sensory processing,
- auditory processing deficits,
- self-advocacy,

- self-monitoring, and
- frustration tolerance.

Student presented little evidence on the specific goal areas identified. Instead, Student's experts challenged the way the goals were measured.

The IEP must show a direct relationship between the present levels of performance, the goals, and the specific educational services to be provided. (Cal. Code Regs., tit. 5, § 3040, subd. (b).) An IEP must contain a statement of measurable academic and functional annual goals, designed to meet the child's needs related to a disability, to enable the child to be involved in and make progress in the general education curriculum. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2)(i); Ed. Code, § 56345, subd. (a)(2).)

ISSUES 1(a)(i), (a)(ii), (a)(iii) AND (a)(vii): STUDENT DID NOT PROVE
NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY
ADDRESS BEHAVIOR, ACADEMICS, ATTENTION, AND PRAGMATICS

School psychologist Carinne Peterson and special education teacher Susan Hanuschak assessed Student's behavior, social emotional functioning, and academic skills as part of Newport-Mesa's January 2020 multidisciplinary report. Peterson and Hanuschak determined Student's overall cognitive functioning was in the extremely low range, his adaptive functioning was in the low range, his reading

skills were strong, and he could identify numbers. Additionally, Peterson determined Student was impacted by atypical behavior and withdrawal. Peterson and Hanuschak used this information to draft

- compliance,
- following directions,
- pragmatics,
- recess routine,
- comprehension, and
- writing goals.

The compliance, following directions, pragmatics, and recess routine goals addressed behavior, attention, and pragmatics. The comprehension and writing goals addressed academics.

Dr. Marta Shinn, Student's expert and a licensed clinical and educational psychologist reviewed the January multidisciplinary report and January 29, 2020, and May 20, 2020, IEP. Dr. Shinn's main concern with the goals was how they were measured. Dr. Shinn was also concerned with how Student would achieve many of the goals because they appeared too advanced when looking at the baselines.

For instance, Dr. Shinn opined it was unrealistic to expect Student to progress from a baseline of zero to 70 or 80 percent success in both goals addressing pragmatics. Conversely, Hanuschak opined 70 percent mastery for such goals was appropriate. Dr. Shinn did not observe Student in a school setting as the Newport-Mesa's assessors did. Dr. Shinn's opinion of what was reasonable for Student to accomplish in a year was based on reading Newport-Mesa's multidisciplinary report.

Hanuschak, on the other hand, had worked with Student. Although Student had not been attending a Newport-Mesa school for over two years and Hanuschak did not have the opportunity to teach student, she assessed Student and observed him during the assessment and at his private school setting. Therefore, Hanuschak's opinion of what was reasonable for Student to accomplish in a year was more persuasive than Dr.Shinn's opinion.

Dr. Shinn took issue with Student's writing goal. Dr. Shinn opined a sentence writing goal was not appropriate because student lacked the prerequisite skill of copying a sentence. However, in her analysis, Dr. Shinn neglected to discuss Student's fine motor goal, which asks Student to copy a simple sentence of three to seven words with 80 percent accuracy. Dr. Shinn did not offer any explanation as to how a sentence writing goal was inappropriate if Student was also working on copying a sentence. Therefore, Dr. Shinn's opinion of the writing goal was not persuasive.

Dr. Shinn also criticized the compliance goal stating Student could not orient to his surroundings and needed that skill before complying with a directive. Student's present levels of performance for his compliance goal stated he responded to repeated directions and hand over hand prompting after a directive was given by the classroom teacher. Student's baseline flowed from this present level and stated Student needed extra prompts even after the teacher gave initial directions. The compliance goal related to the present levels and baseline by asking Student to comply with the first directive given for a non-preferred directive, within 10 seconds, without task avoidance behaviors. Dr. Shinn did not opine that the present levels or baseline for the compliance goal were incorrect. Dr. Shinn's opinion about the compliance goal was not supported by the information in the IEP and was not persuasive.

Student did not prove the behavior, social emotional, or academic goals were not measurable, based on Student's present levels of performance, and or that Student did not have a reasonable chance of attaining them within a year. (Ed. Code, § 56345)

ISSUE 1(a)(vi): STUDENT DID NOT PROVE NEWPORT-MESA FAILED TO
OFFER GOALS TO APPROPRIATELY ADDRESS SOCIAL COMMUNICATION

Jenna Beuck assessed Student in January 2020, and determined his expressive vocabulary skills were an area of personal strength as he could produce all age-appropriate phonemes. His voice and fluency were not areas of concern. Student could express three-to-five-word sentences when requesting highly preferred objects or experiences. However, Student had difficulty in all areas of listening, speaking, reading, and writing. Student's areas of need were in expressive and receptive language as well as social pragmatic language. Based on Student's present levels of performance, Newport-Mesa drafted spatial directions, verbs, and "wh" questions goals.

Abby Rozenberg, Student's expert and a licensed speech language pathologist, reviewed the January 29, 2020, and May 20, 2020, IEP. Rozenberg called Beuck's assessment into question because Beuck was not licensed at the time of the assessment and Beuck's supervisor did not sign the report as required when a speech language pathologist assesses a student prior to receiving their license. Rozenberg opined Beuck's interpretation of the testing results could be faulty without having a supervisor review the report. Additionally, Rozenberg questioned Beuck's decision not to administer informal assessment measures when Student could not complete the formal assessment. Ultimately, Rozenberg agreed with the global areas of deficit Beuck identified. However, Rozenberg questioned the measurability of the goals and opined that more goals were necessary.

For instance, Student's spatial directions goal asked Student to follow two step directions for spatial concepts, under, over, in, and next to, in 70 percent of opportunities across three sessions. Rozenberg opined this goal should have been broken into two parts, following directions and spatial concepts, because it would be impossible to tell what is measured and met. Rozenberg explained that following two step directions was measuring how much linguistic information Student could hold on to, and the spatial concepts was measuring Student's understanding of prepositions. Here, the spatial directions goal had a direct correlation to its baseline and Student's present levels of performance. (Cal. Code Regs., tit. 5, § 3040, subd. (b).) Student's baseline stated he could follow single step directions intermittently when highly motivated and was observed to follow two step directions twice during the assessment. The goal asked him to follow two step directions for spatial concepts.

Rozenberg had similar opinions about Student's verb and "wh" questions goals. Student's verb goal asked him to correctly label actions in pictures, including the present progressive "ing" verb tense ending and auxiliary "be" when asked "What is ____ doing?" with reference to a picture or ongoing action in 80 percent of opportunities over three sessions. The baseline for the verbs goal stated Student was observed to use the auxiliary "be" in zero percent of opportunities during the session. Rozenberg said the context of the baseline was unclear and the verb goal was specific about asking Student to label actions in a picture so the baseline and goal may not have been measuring the same concept. However, the example Rozenberg used was if Student could label actions in a structured setting versus spontaneous play. The baseline of the verb goal states Student could not use the auxiliary "be" in any opportunities during the session. Although the baseline does not define what "the session" was, the goal uses the same word to measure progress. Nothing in the goal, baseline, or present levels of

performance discussed spontaneous play. Rozenburg's opinion that the goal could be measuring Student's ability to correctly label actions in pictures during spontaneous play was not persuasive.

Rozenberg opined Student's "wh" goal was not measurable because the baseline was unclear. The baseline stated Student could answer "wh" questions regarding labeling of items but could not reliably answer "what doing," "who," or "where" questions for the duration of the assessment. Student's inability to answer these questions reliably leads to a baseline of zero.

Rozenberg also questioned Student's ability to meet the verb goal as his baseline was zero and the goals asked him to achieve 70 to 80 percent. While Rozenberg opined this was a lofty goal, Student did not provide any evidence that proved the goal was inappropriate.

Rozenberg reviewed Beuck's assessment and the protocols Beuck used to form an opinion about what areas of need should have been included in the goals. Rozenberg focused on Beuck's administration of the Clinical Evaluation of Language Fundamentals, Fifth Edition. Rozenberg was unsure based on the assessment and protocols if Student accessed the areas of

- sentence comprehension,
- linguistic concepts,
- word structure,
- word classes,
- following directions,

- formulated sentences,
- recalling sentences, or
- understanding spoken paragraphs.

Rozenberg opined Newport-Mesa should have drafted goals in all areas that Student could not access, but Rozenberg did not identify any such areas. Rozenberg did not speak with Beuck about the assessment or seek to otherwise clarify what Student could do at the time. Therefore, Rosenberg's opinion about Student's need for additional goals was given little weight.

Rozenberg's explanation of the goals, what they measured, and how they would be measured was thorough and clear. However, simply because Newport-Mesa could have drafted more optimal goals does not render the goals they offered Student inappropriate. The goals Newport-Mesa drafted were sufficiently measurable to reasonably gauge Student's progress. (*Capistrano, supra*, 21 F.4th at p. 1134.)

ISSUE 1(a)(viii): STUDENT PROVED NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS SENSORY PROCESSING

Newport-Mesa drafted one fine motor occupational therapy goal. Student did not allege the fine motor goal was inappropriate but rather that Newport-Mesa should also have proposed goals to address Student's sensory processing needs. Specifically in the areas of sensory integration, motor planning, and sensory reactivity. Yuka Reyes conducted the January 2020 occupational therapy assessment. Reyes identified, among other concerns, a definite dysfunction range for sensory processing in the classroom environment. Despite this definite dysfunction in the classroom setting, Reyes did not draft any sensory processing goals.

Reyes did not write a sensory processing goal because Newport-Mesa's recommendation was an applied behavior analysis classroom that had sensory regulation tools built into the classroom setting. The IEP, however, did not describe the sensory regulation tools Student would have access to. The IEP listed generic sensory tools and strategies, adaptive tools and paper, heavy movement breaks, preferential seating, deep pressure input, weighted materials, and more, but they were not customized for Student. The IEP also listed visual supports, wait time to process directions, repetition, gain attention prior to instruction, and a multi-sensory approach as the program modifications, supplementary aids, and accommodations necessary for Student to access his educational program. However, none of the modifications, supplementary aids, or accommodations were explained within the IEP document or notes section. Additionally, the sensory tools Reyes referenced as imbedded within the classroom were not described in the IEP document or the IEP notes.

Dr. Susanne Smith-Roley, Student's occupational therapy expert, reviewed Newport-Mesa's January 2020 multidisciplinary assessment, and January 29, 2020, and May 20, 2020, IEP. Dr. Smith-Roley had extensive experience as an occupational therapist in the school setting and conducting independent educational evaluations. Dr. Smith-Roley opined that Student's deficits in sensory processing were significant and Newport-Mesa should have developed goals to address sensory integration, motor planning, and sensory reactivity. Dr. Smith-Roley thoroughly explained sensory needs in children with autism and if the sensory needs were not met it would impact other areas of functioning. Multiple studies show that sensory deficits impact students'

ability to participate in a variety of activities commonly reported in the areas of self-care, self-direction, and breaking down activities into smaller segments. Newport-Mesa identified sensory processing as an area of need but failed to develop goals to measure if Student was making progress in sensory processing. (Ed. Code, § 56345)

Student had difficulty conforming to standard procedures and taking direction. His sensory reactivity – which is a known deficit for students with autism, and his ability to decode and process sensory information was significant. Student required goals to develop the skills necessary to decode and process sensory information to initiate and complete multisensory tasks and to organize his objects and materials. Dr. Smith-Roley's opinion that Newport-Mesa should have developed goals to address Student's sensory needs was persuasive because Newport-Mesa's assessment identified sensory issues as a significant area of need for Student. Reyes's rationale for not including sensory goals was not as persuasive because the IEP document did not corroborate her testimony. Student proved Newport-Mesa denied him a FAPE by failing to draft sensory processing goals.

ISSUES 1(a)(iv), (v), (ix), (x), (xi), AND (xii): STUDENT DID NOT PROVE
NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS
EXECUTIVE FUNCTIONING, PROBLEM-SOLVING, AUDITORY PROCESSING
DEFICITS, SELF-ADVOCACY, SELF-MONITORING, AND FRUSTRATION
TOLERANCE

Student did not present any evidence at hearing or make any argument in his closing brief regarding why Student required goals in executive functioning, problem-solving, auditory processing deficits, self-advocacy, self-monitoring, or frustration tolerance. Therefore, Student did not prove Newport-Mesa denied him a FAPE by failing to offer goals in those areas.

ISSUES 1(b) AND 1(c): SERVICES AND PLACEMENT

Student argued the frequency and delivery model for the speech and language and occupational therapy services Newport-Mesa offered were insufficient to meet his needs. Student also argued the offered placement was inappropriate, and he required a permanent one-to-one aide, not a temporary one. Newport-Mesa argued the services and placement offered were appropriate to meet Student's needs.

An IEP must contain a statement of the related services, supplementary aides and services, program modifications, and supports that will allow the student

- to advance toward his goals,
- access and make progress in his curriculum,
- participate in activities, and to be
- educated with other disabled and nondisabled children. (20 U.S.C. § 1414(d)(1)(A)(i)(IV); 34 C.F.R. § 300.34 (2006); Ed. Code, § 56345, subd. (a)(4).)

The IDEA expresses a clear policy preference for inclusion with non-disabled students to the maximum extent appropriate as an aspiration for all children with special needs. (See 20 U.S.C. § 1412(a)(5)(A); Ed. Code, § 56031; 34 C.F.R. §§ 300.114 (2006) & 300.116 (2006).) 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 could not be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); Ed. Code, § 56031.)

An IEP is evaluated in light of information available to the IEP team at the time it was developed; it is not judged exclusively in hindsight. (*Adams, supra*, 195 F.3d at p. 1149.) "An IEP is a snapshot, not a retrospective." (*Id.* at p. 1149, citing *Fuhrmann v. East Hanover Bd. Of Educ.*, 993 F.2d 1031, 1041.) It must be evaluated in terms of what was objectively reasonable when the IEP was developed. (*Ibid.*)

Based on what it knew at the time, Newport-Mesa offered Student 1,225 minutes of specialized academic instruction weekly, one 30-minute group occupational therapy session weekly, two 30-minute group speech and language therapy sessions weekly, one 15-minute monthly consultation each for speech and language and occupational therapy, and a temporary one-to-one aide for the first 60 days Student attended a Newport-Mesa school. Newport-Mesa offered Student placement in the autism specific applied behavior analysis special day classroom. Student would participate in general education for 30 minutes at the beginning of each day as well as for lunch, recess, physical education, art, music, and any whole school events or assemblies.

SPEECH AND LANGUAGE SERVICES

Student argued he required three 30-minute individual speech and language sessions weekly to address the additional goals recommended by Rozenberg at hearing. Rozenberg opined that Student required individual, not group, services. Rozenberg concluded that Student required individual speech sessions because Student would be distracted in a group setting due to his difficulty with attention, compliance, and lack of motivation. Rozenberg opined the pragmatics Student was working on were so basic, such as responding to his name and orienting himself to face a peer, that he did not need a group setting to work on those skills.

Student did not prove he required the additional goals Rozenberg recommended. Consequently, Rozenberg's recommendation that Student required additional services similarly fails. Moreover, Rozenberg never observed Student in a group setting, making her opinion that Student would be distracted in such a setting entirely speculative. Beuck, however, determined Student's level of services based on her assessment and Student's significant pragmatic needs. Rozenberg's retrospective opinion was not more persuasive than Beuck's opinion after assessing Student. Student did not prove Newport-Mesa denied him a FAPE by offering two 30-minute group speech and language sessions weekly.

OCCUPATIONAL THERAPY SERVICES

Newport-Mesa offered Student one 30-minute weekly group occupational therapy session to address Student's fine motor goal. Reyes based the offer on Student's one fine motor goal. However, Newport-Mesa failed to offer goals in all areas of need, therefore, Newport-Mesa's occupational services offer was not reasonably calculated to meet Student's needs. Dr. Smith-Roley's testimony regarding Student's need for additional goals was persuasive. Dr. Smith-Roley opined Student required two to three hours of occupational therapy weekly. Dr. Smith-Roley persuasively explained there are evidence-based tools for children with autism that have been proven effective. For children with a profound presentation of autism, which Student had, the level of intensity matters. Those methods should be employed to determine the level of service provided to Student. The evidence-based tools recommend two to three hours a week of pullout occupational therapy and accommodations alone are insufficient. Newport-Mesa did not offer any evidence to rebut Dr. Smith-Roley's testimony.

Student proved Newport-Mesa denied him a FAPE by only offering one 30-minute weekly group occupational therapy session.

AIDE SUPPORT AND PLACEMENT

Student believed he required a permanent one-to-one aide and that his least restrictive environment was a nonpublic school setting. In support of this contention, Dr. Shinn opined Student could not tolerate any amount of general education. However, Dr. Shinn made this recommendation almost two years after Newport-Mesa made its FAPE offer for the January 29, 2020, and May 20, 2020, IEP. At the time of the January 29, 2020, and May 20, 2020, IEP team meeting, Student was attending a general education private school with a one-to-one aide. Dr. Shinn did not observe Student in that school setting.

Newport-Mesa offered a fulltime one-to-one aide for Student for the first 60 days he attended Newport-Mesa to support his transition. Student's argument that this denied him a FAPE because it was not a permanent aide was not supported by the evidence presented. Not only did multiple Newport-Mesa witnesses testify that Newport-Mesa would hold an IEP team meeting to discuss the aide support after Student attended for 30 days, the IEP notes reflect this as well.

Newport-Mesa offered Student placement in a special day class with an applied behavior analysis focus. Daria Fenton, a special day class teacher for the proposed program, explained the classroom setup and a typical day. The classroom averaged 10 students and three adults, one teacher, and two fulltime aides. Often there were additional aides assigned to students who needed one-to-one support. A typical day started with a sensory break followed by morning circle after which students would cycle

through two of the four daily centers, either language arts, fine motor and writing, math, or technology. Students would then have a recess break before cycling through the two additional centers. After the center work, students went to lunch. A typical afternoon consisted of community and enrichment activities, like cooking lessons.

In Newport-Mesa's proposed placement, Student would spend 69 percent of the day outside of the general education environment. Dr. Shinn opined that Student did not have the skills necessary to benefit from any mainstreaming. This opinion was largely based on behavior Hanuschak and Peterson reported during their observation of Student at his private school. Specifically, "during recess Student climbed to the top of an apparatus and watched and looked around. He stayed there the entire recess." Dr. Shinn did not make that observation, nor had she met Student at the time of the January 29, 2020, and May 20, 2020, IEP. Newport-Mesa assessed Student prior to recommending a placement where Student could have access to general education peers while being supported in the special education environment.

When determining whether a placement is the least restrictive environment for a child with a disability, four factors must be evaluated and balanced. The IEP team must consider the educational benefits of full-time placement in a regular classroom, and the non-academic benefits of full-time placement in a regular classroom. It must also consider the effects the presence of the child with a disability has on the teacher and children in a regular classroom, and the cost of placing the child with a disability full-time in a regular classroom. (*Sacramento City Unified Sch. Dist. v. Rachel H.* (9th Cir. 1994) 14 F.3d 1398, 1404.)

The parties agreed a regular education classroom, without supports and services, was not appropriate for Student. If a school district determines that a child cannot be

educated in a general education environment, then the least restrictive environment analysis requires determining whether the child has been mainstreamed to the maximum extent that is appropriate in light of the continuum of program options. (*Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1050 (*Daniel*)). The continuum of program options includes, but is not limited to:

- regular education; resource specialist programs,
- designated instruction and services; special classes,
- nonpublic, nonsectarian schools,
- state special schools,
- specially designed instruction in settings other than classrooms,
- itinerant instruction in settings other than classrooms, and
- instruction using telecommunication instruction in the home or instructions in hospitals or institutions. (Ed. Code, § 56361.)

Federal and State law require that, in developing an IEP, the team must consider both general and special factors. (20 U.S.C. § 1414(d)(3); 34 C.F.R. § 300.324(a)(2006); Ed. Code, § 56441.1.) The general and special factors are stated in broad terms, and do not include the requirement to consider a specific service, program option, or parental request.

Newport-Mesa proposed a program that would allow Student access to general education peers and be mainstreamed to the maximum extent appropriate for him. (*Daniel, supra*, 874 F.2d at p. 1050.) Fulltime placement in general education was not appropriate for Student. However, the placement and services Newport-Mesa offered allowed Student to be mainstreamed with aide support for nonacademic activities. To remove Student from the public school to place him in a nonpublic school where he

would only interact with special education peers, would not be the least restrictive environment for him. Student's argument that he could not tolerate any access to general education was not supported by the evidence. Newport-Mesa did not propose general education for academics for Student but did offer mainstreaming for nonacademic time to expose Student to his general education peers.

To determine whether a school district substantively offered a student a FAPE, the focus must be on the adequacy of the district's proposed program, not parent's preferred program. (*Gregory K. v. Longview Sch. Dist.* (9th Cir. 1987) 811 F.2d 1307, 1313-1314.) If the school district's program was designed to address the student's unique educational needs, was reasonably calculated to provide the student with some educational benefit, comported with the student's IEP, and was in the least restrictive environment, then the school district provided a FAPE, even if the student's parents preferred another program, and even if the parents' preferred program would have resulted in greater educational benefit. (*Ibid.*)

The evidence showed Newport-Mesa offered Student a placement that addressed his unique needs, was reasonably calculated to provide him with some educational benefit, and mainstreamed him in the general education environment to the maximum extent appropriate for him. Student did not prove Newport-Mesa denied him a FAPE by offering placement in a special day class on a public-school campus with mainstreaming during nonacademic time.

ISSUES 2 AND 3: DID NEWPORT-MESA DENY STUDENT A FAPE BY FAILING TO CONVENE AN ANNUAL IEP TEAM MEETING IN JANUARY 2021, AND BY FAILING TO HAVE AN IEP IN PLACE FOR THE BEGINNING OF THE 2021-2022 SCHOOL YEAR?

Student contends that, although Parents informed Newport-Mesa they were planning to homeschool Student in September 2020, they never formally agreed to waive the timeline to hold an annual IEP team meeting nor revoked their consent for Student to receive special education or related services. Student argues because Parents did not explicitly state Student would remain homeschooled, Newport-Mesa was required to hold an annual IEP team meeting and have an IEP in place for Student at the beginning of the 2021-2022 school year.

Newport-Mesa contends Student was a parentally placed private school student and it was not obligated to hold an annual IEP team meeting for Student or have an IEP in place at the beginning of the school year.

Student has been a parentally placed private school student since May 2017. Student's Issues 2 and 3 allege Newport-Mesa did not meet its obligations to Student while he was privately placed by Parents. These issues are impacted by laws pertaining to privately placed Students.

For public school children with disabilities, school districts make a FAPE available by having an IEP in effect at the beginning of each school year. (34 C.F.R. § 300.323(a).) Private school children with disabilities, however, do not have an individual entitlement to a FAPE. (34 C.F.R. § 300.137; *Capistrano, supra*, 21 F.4th at p. 1138.)

Title 34, section 300.130, of the Code of Federal Regulations defines parentally placed private school children with disabilities as children with disabilities enrolled by their parents in private, including religious, schools or facilities. (20 U.S.C. § 1412(a)(10)(A).) Section 300.137(a) states “no parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.” (34 C.F.R. § 300.137(a).)

These regulations and statutes do not distinguish between private school students who are privately placed because of a dispute over an IEP or those privately placed as a matter of preference. (*Capistrano, supra*, 21 F.4th at pp. 1138-40.) Consequently, once a parent unilaterally enrolls the student in private school, the student meets the definition of a private school child with a disability and does not have an individual entitlement to special education and related services. (*Ibid.*)

In *Capistrano*, parents of a disabled first grade student withdrew that student from public school and placed her at a private school. The parents filed a complaint seeking reimbursement for the private placement. Parents subsequently withdrew the complaint and request for reimbursement, and then filed a second complaint, again seeking reimbursement for the private placement. Student remained privately placed during the rest of first grade and all of second grade.

The Ninth Circuit held that if a student has been enrolled in a private school by their parents, the school district does not need to develop an IEP, even when reimbursement has been requested or if a complaint has been filed. When parents withdraw a student from public school and place a student in private school, all a parent

has to do is ask for the school district to develop an IEP, and then the school district must develop one. There is no freestanding requirement that IEPs be conducted for privately placed student. (*Ibid.*)

Children with disabilities in home-school programs must be treated in the same way as other parentally placed private school children with disabilities under the IDEA where, as in California, the state treats home schools as private schools. (See *United States Department of Education Office of Special Education and Rehabilitative Services, Assistance to States for the Education of Children with Disabilities, Discussion of Comments to part 300.133*, 71 Fed. Reg. 46,594 (August 14, 2006).) California does not distinguish homeschool programs from other private schools. (See Ed. Code, §§ 33190, 48222 and 48415.) Under the Education Code, every person or entity conducting private school instruction must file a Private School Affidavit with the California Department of Education. (See Ed. Code, § 33190.) Thus, for homeschooled students with disabilities, the district's obligation is to comply with the IDEA provisions and governing regulations regarding parentally placed private school students with a disability.

By email on September 23, 2020, Parents notified Newport-Mesa that they decided to homeschool student. Parents' email did not express disagreement with Student's IEP, request reimbursement, or request an IEP team meeting. Parents explained that they struggled with deciding what was best for Student, but ultimately decided because of the unusual circumstances of the ongoing COVID-19 pandemic that homeschooling Student was the best option. Parents also signed a Newport-Mesa form withdrawing student from school on September 23, 2020. Parents checked the box noting homeschooling for the reason of withdrawal.

Parents did not have any further contact with Newport-Mesa until their attorney sent a letter on August 31, 2021. Through their attorney, Parents disagreed with Newport-Mesa's FAPE offer and the assessments it conducted in January 2020. Parents notified Newport-Mesa they intended to privately place Student and seek reimbursement but did not request an IEP team meeting. Newport-Mesa's school year for the 2021-2022 school year began on August 23, 2022, one week before Parents notified Newport-Mesa of their disagreement with the FAPE offer.

Student attempted to distinguish the facts of this case from *Capistrano* by relying on Parents' email stating they were going to homeschool Student "for now." Student argues no one indicated Parents would not reenroll Student in Newport-Mesa if it made an appropriate FAPE offer. However, Student neglected to mention when Parents emailed Newport-Mesa notifying it they would be homeschooling Student, they also stated "[w]e are very grateful that the school district has a place for him when he is ready." Nothing in Parents' email to Newport-Mesa, or the subsequent withdrawal form Parents signed, indicated they disagreed with the January 29, 2020 and May 20, 2020, IEP. While testifying during the hearing, Parent expressed disagreement with Newport-Mesa's January 29, 2020, and May 20, 2020, FAPE offer. Parent stated Student required in-person instruction and the program Newport-Mesa offered was insufficient to meet Student's needs. However, Parents did not communicate that opinion to Newport-Mesa prior to August 31, 2021. Parents email, read in conjunction with the withdrawal form, notified Newport-Mesa that Parents would return Student to Newport-Mesa when they were ready, at an unspecified future date.

Consequently, a preponderance of the evidence showed Parents privately placed Student from September 23, 2020, through the beginning of the 2021-2022 school year. Parents did not request that Newport-Mesa develop an IEP for Student while he

was privately placed. Therefore, Newport-Mesa was not obligated to develop an IEP or offer Student a FAPE from September 23, 2020, through the beginning of the 2021-2022 school year. (*Capistrano, supra*, 21 F.4th at pp. 1138-40.) Student did not prove Newport-Mesa denied him a FAPE by failing to hold an annual IEP team meeting in January 2021, or failing to have an IEP in place at the beginning of the 2021-2022 school year on August 23, 2022.

ISSUE 4: DID NEWPORT-MESA DENY STUDENT A FAPE IN THE IEP DEVELOPED ON JANUARY 28, 2022?

Student contends Newport-Mesa had an obligation to make a new IEP offer for Student based on the information it knew at the time of the January 28, 2022 IEP team meeting. Student contends Parents only agreed to postpone the IEP team meeting until all four of the independent educational evaluations were complete and did not agree to postpone an updated FAPE offer from Newport-Mesa.

Newport-Mesa contends the purpose of the January 28, 2022, IEP team meeting, was to review two of the four independent educational evaluations, and not to propose an updated IEP or FAPE offer.

Student continued to be a parentally placed private school student during the 2021-2022 school year. All Parents needed to do was ask for an IEP and Newport-Mesa would have been required to prepare an IEP. (*Capistrano, supra*, 21 F.4th at pp. 1138-40.)

Here, although Newport-Mesa held an amendment IEP team meeting on January 28, 2022, the meeting was not at Parents' request. Newport-Mesa suggested the IEP team meeting to review the occupational therapy and speech and language

independent educational evaluations. Newport-Mesa did not make any changes to the January 29, 2020, and May 20, 2020, IEP. Newport-Mesa told Parents it wanted to develop an updated IEP with current information, but the January 29, 2020, and May 20, 2020, IEP and FAPE offer could be implemented if the family wanted to reenroll Student immediately. Neither Parents, nor their attorneys, asked Newport-Mesa to prepare an updated IEP for Student.

Parents did not have any direct contact with Newport-Mesa prior to the IEP team meeting on January 28, 2022. Their attorneys communicated with Newport-Mesa by way of a letter on August 31, 2021, requesting independent educational evaluations, and a letter on September 28, 2021, notifying Newport-Mesa of the independent assessors Student chose, and requesting an independent functional behavioral analysis evaluation. Parents' attorneys emailed with Newport-Mesa on September 28, 2021, and October 5, 2021, about the independent functional behavioral analysis evaluation. Parents' attorneys also emailed with Newport-Mesa between December 3, 2021, and December 16, 2021, about scheduling an IEP team meeting to discuss the speech and language and occupational therapy independent educational evaluations. Parents' attorneys also sent a letter to Newport-Mesa confirming their attendance at the January 28, 2022, IEP team meeting. At no time prior to, or during the IEP team meeting, did Parents, on their own or through their attorneys, request that Newport-Mesa develop an IEP with the information it had at the time.

Student argued Parents did not agree to postpone receiving an updated FAPE offer from Newport-Mesa. Student argued Parents only agreed to postpone the IEP team meeting until all four of the independent educational evaluations were complete.

This argument was unpersuasive. Newport-Mesa specifically asked Parents on February 3, 2022, if they were requesting a new IEP before receiving the two remaining independent educational evaluation reports. Although Parents were concerned about how long the process was taking, Parents, through their attorneys, agreed to wait to develop an updated IEP for Student until the psychoeducational independent educational evaluation and independent functional behavioral analysis evaluation were completed. Parents' attorney confirmed this with Newport-Mesa's attorney in an email on February 22, 2022. It was not until June 24, 2022, that Parents, through their attorneys, requested Newport-Mesa continue to convene IEP team meetings. Although, even then, Parents did not specifically ask Newport-Mesa to develop an IEP for Student.

Student did not meet his burden of proof that Newport-Mesa denied him a FAPE at the January 28, 2022, IEP team meeting by failing to make a FAPE offer. Student remained a parentally placed private school student and Newport-Mesa was only obligated to develop an IEP if Parents requested one, which they did not.

ISSUE 5: DID NEWPORT-MESA DENY STUDENT A FAPE IN THE IEP DEVELOPED ON OCTOBER 24, 2022?

Student contends Newport-Mesa had an obligation to develop a new IEP for Student based on the information it knew at the time of the October 24, 2022, IEP team meeting. Newport-Mesa contends Student mischaracterized the October 24, 2022, IEP team meeting, which was part one of the IEP team meeting that concluded on December 5, 2022.

Student's IEP team met on October 24, 2022, as part one of an IEP team meeting. The meeting was continued to December 5, 2022, because the team did not have enough

time to complete the IEP during the first meeting. The IEP document reflects this. The date of the IEP team meeting is listed as October 24, 2022, however, the services have a start date of December 5, 2022, and an end date of October 23, 2023. This indicates the October 24, 2022, IEP team meeting, and the December 5, 2022, IEP team meeting, were part of the same meeting, as the services ended a year after the October 24, 2022, IEP team meeting on October 23, 2023. The IEP notes page has meeting notes for both the October 24, 2022, IEP team meeting, and the December 5, 2022, IEP team meeting. The IEP team meeting notes from October 24, 2022, reflect the team agreed to reconvene for part two of the IEP team meeting.

Student argues Newport-Mesa denied him a FAPE by not updating any of the goals at the October 24, 2022, IEP team meeting. However, Newport-Mesa prepared goals in advance of the October 24, 2022, IEP team meeting, to discuss with the team and gather input from the independent educational evaluation assessors but the team ran out of time. Newport-Mesa did not present the same goals written for the January 29, 2020, and May 20, 2020, IEP, but rather did not have an opportunity to present updated present levels of performance, goals, accommodations, services, or placement. It is clear from the IEP document that Newport-Mesa did not present an offer of goals, services, or placement at the October 24, 2022, IEP team meeting. Student's argument that Newport-Mesa denied him a FAPE in the IEP developed on October 24, 2022, mischaracterizes the purpose of the October 24, 2022, IEP team meeting. The October 24, 2022, IEP team meeting was part one of a meeting that was continued on December 5, 2022. Newport-Mesa presented its FAPE offer on December 5, 2022. Student did not allege Newport-Mesa denied him a FAPE by delaying the meeting but rather tried to argue Newport-Mesa

should have made an offer of goals, services, and placement at the October 24, 2022, IEP team meeting. Student did not provide any persuasive evidence to support this position. Therefore, Student did not prove Newport-Mesa denied him a FAPE at the October 24, 2022, IEP team meeting.

ISSUE 6: DID NEWPORT-MESA DENY STUDENT A FAPE IN THE IEP DEVELOPED ON DECEMBER 5, 2022?

Student contends the goals Newport-Mesa offered at the December 5, 2022, IEP team meeting were deficient. Student also argues he required a permanent one-to-one aide, not a temporary 60-day aide, and additional speech and language and occupational therapy services. Finally, Student argued he required a nonpublic school placement.

Newport-Mesa contends the December 5, 2022, IEP, offered Student a FAPE in the least restrictive environment. Newport-Mesa further contends it offered a reasonably calculated IEP to permit Student to make meaningful educational progress with significant exposure to typical peers.

Newport-Mesa gathered and reviewed extensive data to draft the proposed goals, services, and placement it offered Student at the December 5, 2022, IEP team meeting. Newport-Mesa convened three IEP team meetings to review four independent educational evaluations and gathered information from Student's current school, Port View Preparatory School, during the October 24, 2022, IEP team meeting. Newport-Mesa reviewed

- Dr. Shinn's independent educational placement evaluation,
- Dr. Smith-Roley's independent occupational therapy evaluation,

- Rozenberg's independent speech and language evaluation, and
- Dr. Denise Eckman's independent functional behavior evaluation.

Newport-Mesa used the information to develop 17 goals for Student, offered specialized academic instruction in a special day class with an applied behavior analysis focus, occupational therapy, speech and language services, and a 60-day one- to-one aide.

Dr. Shinn conducted an independent educational placement evaluation in spring 2022, and a placement addendum in June 2022. Dr. Shinn conducted formal and informal assessment measures, observed Student at Port View, and observed Newport-Mesa's proposed program as well as Student's preferred program, Port View. Dr. Shinn criticized Newport-Mesa's proposed goals but did not recommend any alternative goals. Dr. Shinn did recommend a specific program for Student.

Dr. Smith-Roley conducted an independent occupational therapy evaluation in October 2021. Dr. Smith-Roley conducted formal and informal assessment measures and observed Student in his homeschool setting with his applied behavior analysis tutor. Dr. Smith-Roley proposed goals and recommended services.

Rozenberg conducted an independent speech and language evaluation. Rozenberg did not recommend specific goals but did identify areas of suggested therapy focus and recommended services.

Student's challenge to the FAPE offer presented at the December 5, 2022, IEP team meeting, was almost identical to the arguments presented in Issue 1. Student's experts offered similar testimony when reviewing the goals, services, and placement offered in the January 29, 2020, and May 20, 2020, IEP, versus the December 5, 2022, IEP.

ISSUE 6(a): GOALS

ISSUES 6(a)(i), (iii), (iv), (v), (vi), (vii), (viii), (x), (xi), (xiv), (xv), (xvi), (xvii), AND (xviii): STUDENT DID NOT PROVE NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS COMMUNICATION, TASK AVOIDANCE, ELOPEMENT, VERBAL STEREOTYPY, FOCUS, ATTENTION, SOCIAL SKILLS, ACADEMICS, ATTENTION TO TASK, BEHAVIOR, VERBAL LEARNING, FOLLOWING DIRECTIONS, VERBAL PROTESTING, AND ADAPTIVE FUNCTIONING

Newport-Mesa used the information from Dr. Eckman's report to draft behavior goals. Newport-Mesa drafted an attending to task goal, a following directions goal, a reducing elopement goal, and a requesting goal. Dr. Eckman attended the October 24, 2022, IEP team meeting, to discuss the independent functional behavior evaluation but she did not testify at hearing.

Dr. Shinn's opinions, at hearing, regarding goal deficiencies were unpersuasive for several reasons. First, Dr. Shinn criticized the attending goal. Dr. Shinn did not allege the goal was inappropriate or unattainable, but rather alleged it was deficient because it did not describe how Newport-Mesa would work with Student to help him achieve the goal. Dr. Shinn similarly criticized the elopement goal because it did not describe the supports Newport-Mesa would use to help Student achieve the goal. Dr. Shinn criticized the following directions goal as unclear because the baseline stated how often Student avoided tasks and the goal developed asked Student to follow directions.

However, Dr. Shinn contradicted herself by opining if the baseline identified off-task behavior then the goal should address compliance with tasks. Dr. Shinn similarly criticized the requesting goal alleging the baseline did not directly correlate to the goal. However, the baseline described how often Student engaged in stereotypy – a maladaptive behavior – and the goal required Student to use appropriate language to make requests rather than using maladaptive behavior, such as stereotypy. Dr. Shinn’s testimony that the baseline did not directly correspond to the goal was not logical.

Newport-Mesa used information from Dr. Eckman’s report and Dr. Shinn’s report to draft social emotional goals. Newport-Mesa drafted an emotional regulation goal and a turn taking goal. Dr. Shinn criticized the emotional regulation goal and turn taking goal as too advanced for Student. Dr. Shinn admitted the goals were good, but opined they were future goals for Student not, goals he could achieve now.

Dr. Shinn’s testimony was not persuasive. The baseline for Student’s emotional regulation goal was that Student could not participate in calming strategies. The goal naturally flowed from that baseline and asked Student to follow staff modeling of a self-regulating calming strategy during periods of dysregulation over 80 percent of opportunities. Similarly, the baseline for the turn taking goal was that Student was participating in parallel play. The goal flowed from that baseline as well and asked Student when he was presented with a tabletop turn taking game, to state that it is his turn in 70 percent of opportunities. These goals were measurable, based on Student’s present levels of performance, and reasonably attainable. (Ed. Code, § 56345).

Newport-Mesa used the information from Rozenberg's report, along with observations Newport-Mesa conducted, to draft communication goals. Newport-Mesa drafted a prepositions goal, an auxiliary and verb use goal, an attributes goal, and a "wh" questions goal. Rozenberg recommended goals in the areas of

- describing attributes,
- following two step directions with varying attributes and concepts,
- prepositions, and
- picture description with complete sentences.

The auxiliary and verb use goal asked Student to describe pictures as did the attributes and "wh" questions goals. Newport-Mesa drafted goals in the areas Rozenberg recommended in her report. At hearing, Rozenberg opined Newport-Mesa should have also drafted a spontaneous language goal, however, she did not offer any additional testimony about a spontaneous language goal or why that area was not recommended in her report.

Newport-Mesa used observational data to create academic goals. Newport-Mesa drafted a reading comprehension goal, sentence writing, a double-digit addition goal, and a single-digit subtraction goal. Dr. Shinn opined the goals were good but speculated they might not be attainable.

Multiple Newport-Mesa witnesses testified regarding goal development, measurability, and attainability. Newport-Mesa drafted the goals based on Student's present levels of performance and what was reasonably calculated so Student could make meaningful educational progress.

Student's argument that the goals were not attainable was based on Dr. Shinn's assessment. Dr. Shinn did not provide any direct services to Student. Neither Student's former applied behavior analysis tutor nor his teacher from Port View testified regarding what Student could reasonably accomplish within a year. Dr. Shinn's opinion was not more persuasive than Newport-Mesa's opinion when drafting the goals.

Consequently, Student did not meet his burden of proof that Newport-Mesa failed to offer goals to appropriately address

- communication,
- task avoidance,
- elopement,
- verbal stereotypy,
- focus,
- attention,
- social skills,
- academics,
- attention to task,
- behavior,
- verbal learning,
- following directions,
- verbal protesting, and
- adaptive functioning.

ISSUES 6(a) (ii), (xii), (xiii), (xx), AND (xxiii): STUDENT DID NOT PROVE NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS DAILY LIVING SKILLS, ADAPTIVE LIVING SKILLS, INDEPENDENCE, ANXIETY, AND COMMUNITY LIVING

Student did not present any evidence at hearing or make any argument in his closing brief regarding why Student required daily living skills, adaptive living skills, independence, anxiety, and community living goals. Therefore, Student did not prove Newport-Mesa denied him a FAPE by failing to offer goals in those areas.

ISSUES 6(a) (xxi): STUDENT DID NOT PROVE NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS TRANSITIONS

Dr. Smith-Roley recommended a transitions goal for Student in her independent occupational therapy assessment. However, Dr. Smith-Roley did not expand any further on that opinion during hearing, nor did she opine a transitions goal was missing when reviewing the goals Newport-Mesa drafted for the in the December 5, 2022, IEP. Therefore, Student did not prove Newport-Mesa denied him a FAPE by failing to offer a transitions goal.

ISSUES 6(a) (ix), (xix), AND (xxii): STUDENT PROVED NEWPORT-MESA FAILED TO OFFER GOALS TO APPROPRIATELY ADDRESS MOTOR SKILLS, SENSORY PROCESSING, AND SELF-REGULATION

Newport-Mesa used Dr. Smith-Roley's report and observational data to create three fine motor goals for far-point copying. Dr. Smith-Roley opined the goals were adequate, however, additional proposed goals in processing sensory information, self-regulation, and motor planning should have been included.

Dr. Smith-Roley proposed self-regulation, transition, motor control, self-care, personal space, fine motor, initiation of action, organization of materials, and social participation goals in her independent occupational therapy assessment. Shabnam Taitano, an occupational therapist for Newport-Mesa, drafted the fine motor goals. Similar to the goals from the January 29, 2020, and May 20, 2020, IEP, Taitano did not write a sensory processing goal because Newport-Mesa's recommendation was an applied behavior analysis classroom that had sensory regulation tools built into the classroom setting. Dr. Smith-Roley recommended two self-regulation goals because they are a high priority for Student. The self-regulation goals are under the umbrella of sensory integration, but broader and designed to assist Student in strategies to employ sensory integration tools but also for Student to gain self-awareness and integrate those skills within a task.

Taitano wanted to hold an interim IEP team meeting after Student started the program to potentially add a sensory goal after collecting observational data to determine appropriate sensory needs. While understandable, Student had an identified sensory need, specifically in the area of sensory integration, motor planning, and sensory reactivity, and Newport-Mesa should have developed a goal to determine if Student was making progress in sensory processing. (Ed. Code, § 56345).

Dr. Smith-Roley recommended a motor control goal because Student had difficulty sustaining an upright position for an extended period. Due to that difficulty Student would have a hard time with tabletop activities. Dr. Smith-Roley opined that

was caused by a vulnerability in the vestibular system but that could be addressed with occupational therapy. Newport-Mesa did not offer any evidence to rebut that opinion.

Student proved Newport-Mesa denied him a FAPE by failing to offer sensory processing goals.

ISSUES 6(b) AND 6(c): SERVICES AND PLACEMENT

Newport-Mesa offered Student placement in the autism specific applied behavior analysis special day classroom for

- 1,300 minutes of specialized academic instruction weekly, with
 - one 30-minute group occupational therapy session weekly,
 - two 30-minute group speech and language therapy sessions weekly,
 - one 15-minute monthly consultation each for speech and language and occupational therapy, and a
- temporary one-to-one aide for the first 60 days Student attended a Newport-Mesa school.

Student would participate in general education for 30 minutes at the beginning of each day as well as for lunch, recess, physical education, art, music, and any whole school events or assemblies.

At the time of the December 5, 2022, IEP team meeting, Student was attending Port View nonpublic school. The program at Port View was substantially similar to the program Newport-Mesa offered.

SPEECH AND LANGUAGE SERVICES

In her report, Rozenberg recommended Student receive three 30-minute individual speech and language therapy sessions weekly. Rozenberg made the same recommendation at hearing. Rozenberg's recommendation was based on her opinion of the goals Student required. Rozenberg opined that to achieve the goals written, along with additional goals in spontaneous language, Student required more than the 30-minutes twice weekly group speech and language services Newport-Mesa offered.

Student did not prove he required additional spontaneous language goals. Therefore, Rozenberg's recommendation that Student required additional services similarly fails.

Student's IEP team discussed Rozenberg's recommendations during the January 28, 2022, IEP team meeting. Newport-Mesa speech language pathologist Kaylie Holke and Rozenberg discussed the benefits of group verses individual therapy given Student's deficits in social language during that same IEP team meeting. Holke suggested because of Student's social language deficits, group speech and language therapy might be more beneficial than all individual speech and language therapy.

Rozenberg admitted her recommendation against group therapy was based on conjecture because she had not observed Student in a group setting. Therefore, Rozenberg's opinion that Student required individual speech and language therapy was not persuasive. Student did not prove Newport-Mesa denied him a FAPE in offering twice weekly 30-minute group speech and language services.

OCCUPATIONAL THERAPY SERVICES

Both Dr. Smith-Roley and Taitano identified sensory processing as an area of concern for Student. However, Newport-Mesa did not draft goals or offer individual services to address sensory processing. Dr. Smith-Roley recommended two 60-minute sessions of individual occupational therapy weekly. Dr. Smith-Roley's recommendation was based on her assessment and providing services to Student to meet his needs in both fine motor and sensory processing.

Similar to the analysis in Issue 1, Student proved he required additional occupational therapy services to advance toward his goals. (20 U.S.C. § 1414(d)(1)(A)(i)(IV); 34 C.F.R. § 300.34 (2006); Ed. Code, § 56345, subd. (a)(4).) Student proved Newport-Mesa denied him a FAPE by offering only one 30-minute weekly occupational therapy session.

AIDE SUPPORT AND PLACEMENT

Student made the same argument that he required a permanent one-to-one aide and that his least restrictive environment was a nonpublic school setting as he did regarding the January 29, 2020, and May 20, 2020, IEP. Newport-Mesa again offered a fulltime one-to-one aide for Student for the first 60 days Student attended Newport-Mesa to support his transition. Student's argument that this denied him a FAPE because it was not a permanent aide was not supported by the evidence presented.

Dr. Shinn criticized Newport-Mesa's program as having a high enrollment with a one teacher to 10 student ratio, however, Port View's program had one teacher to 12 students. Both programs offered embedded speech and language, occupational therapy, and applied behavior analysis supports.

The only notable difference between Newport-Mesa's program and Port View's program was access to general education peers. Newport-Mesa's program offered Student daily exposure to typical peers for nonacademic activities, whereas Port View was a more restrictive environment with no general education peers. At Port View, Student's only opportunity for exposure to general education peers was a once weekly community activity.

For the reasons discussed in Issue 1(c), Newport-Mesa's offered program was appropriate and in the least restrictive environment. Student did not prove he required a nonpublic school placement or that Newport-Mesa denied him a FAPE by offering placement in a special day class with mainstreaming during nonacademic time.

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):

Newport-Mesa denied Student a FAPE in the IEP developed on January 29, 2020, and May 20, 2020, by failing to offer failing to offer goals to appropriately address sensory processing. Student prevailed on Issue 1(a)(viii). Newport-Mesa did not deny Student a FAPE in the IEP developed on January 29, 2020, and May 20, 2020, by failing to offer goals to appropriately address

- behavior,
- academics,

- attention,
- executive function,
- problem-solving,
- social communication skills,
- pragmatics,
- auditory processing deficits,
- self-advocacy,
- self-monitoring, and
- frustration tolerance.

Newport-Mesa prevailed on Issues 1(a)(i)-(vii) and (ix)-(xii).

ISSUE 1(b):

Newport-Mesa denied Student a FAPE in the IEP developed on January 29, 2020, and May 20, 2020, by failing to offer services to appropriately address sensory processing.

Student prevailed on Issue 1(b).

ISSUE 1(c):

Newport-Mesa did not deny Student a FAPE in the IEP developed on January 29, 2020, and May 20, 2020, by failing to offer a placement appropriate to provide the services identified in Issue 1(b).

Newport-Mesa prevailed on Issue 1(c).

ISSUE 2:

Newport-Mesa did not deny Student a FAPE by failing to convene an annual IEP team meeting in January 2021.

Newport-Mesa prevailed on Issue 2.

ISSUE 3:

Newport-Mesa did not deny Student a FAPE by failing to have an IEP in place for the beginning of the 2021-2022 school year.

Newport-Mesa prevailed on Issue 3.

ISSUE 4(a):

Newport-Mesa did not deny Student a FAPE in the IEP developed on January 28, 2022, by failing to offer goals to appropriately address

- communication,
- fine motor,
- writing,
- balance,
- self-regulation,
- sensory processing,
- anxiety,
- impulsivity,
- organization,
- focus,

- attention,
- ability to follow directions,
- task avoidance,
- pragmatics,
- self-advocacy,
- reading,
- mathematics,
- executive functioning,
- social skills,
- motor planning,
- auditory processing deficits,
- self-monitoring, and
- problem solving.

Newport-Mesa prevailed on Issue 4(a).

ISSUE 4(b):

Newport-Mesa did not deny Student a FAPE in the IEP developed on January 28, 2022, by failing to offer services to appropriately address the areas of need identified in Issue 4(a).

Newport-Mesa prevailed on Issue 4(b).

ISSUE 4(c):

Newport-Mesa did not deny Student a FAPE in the IEP developed on January 28, 2022, by failing to offer a placement appropriate to provide the services identified in Issue 4(b).

Newport-Mesa prevailed on Issue 4(c).

ISSUE 5(a):

Newport-Mesa did not deny Student a FAPE in the IEP developed on October 24, 2022, by failing to offer goals to appropriately address

- communication,
- daily living skills,
- task avoidance,
- elopement,
- verbal stereotypy,
- focus,
- attention,
- social skills,
- motor skills,
- academics,
- attention to task,
- adaptive living skills,
- independence,
- behavior,
- verbal learning,

- following directions,
- verbal protesting,
- adaptive functioning,
- sensory processing,
- anxiety,
- transitions,
- self-regulation, and
- community living.

Newport-Mesa prevailed on Issue 5(a).

ISSUE 5(b):

Newport-Mesa did not deny Student a FAPE in the IEP developed on October 24, 2022, by failing to offer services to appropriately address the areas of need identified in Issue 5(a).

Newport-Mesa prevailed on Issue 5(b).

ISSUE 5(c):

Newport-Mesa did not deny Student a FAPE in the IEP developed on October 24, 2022, by failing to offer a placement appropriate to provide the services identified in Issue 5(b).

Newport-Mesa prevailed on Issue 5(c).

ISSUE 6(a):

Newport-Mesa denied Student a FAPE in the IEP developed on December 5, 2022, by failing to offer goals to appropriately address motor skills, sensory processing, and self-regulation.

Student prevailed on Issues 6(a)(ix), (xix), and (xxii).

Newport-Mesa did not deny Student a FAPE in the IEP developed on December 5, 2022, by failing to offer goals to appropriately address

- communication,
- daily living skills,
- task avoidance,
- elopement,
- verbal stereotypy,
- focus,
- attention,
- social skills,
- academics,
- attention to task,
- adaptive living skills,
- independence, behavior,
- verbal learning,
- following directions,
- verbal protesting,
- adaptive functioning,

- anxiety,
- transitions, and
- community living.

Newport-Mesa prevailed on Issues 6(a)(i)-(viii), (x)-(xviii), (xx)-(xxi), and (xxiii).

ISSUE 6(b):

Newport-Mesa denied Student a FAPE in the IEP developed on December 5, 2022, by failing to offer services to appropriately address sensory processing.

Student prevailed on Issue 6(b).

ISSUE 6(c):

Newport-Mesa did not deny Student a FAPE in the IEP developed on December 5, 2022, by failing to offer a placement appropriate to provide the services identified in Issue 6(b).

Newport-Mesa prevailed on Issue 6(c).

REMEDIES

Student proved Newport-Mesa denied him a FAPE by

- failing to draft sensory processing goals in the IEP developed on January 29, 2020, and May 20, 2020,

- failing to draft sensory processing, self-regulation, and motor planning goals in the IEP developed on December 5, 2022, and
- failing to offer sufficient occupational therapy in the IEPs developed on January 29, 2020, and May 20, 2020, and December 5, 2022.

Courts have broad equitable powers to remedy the failure of a school district to provide a FAPE to a disabled child. (20 U.S.C. § 1415(i)(1)(C)(iii); Ed. Code, § 56505, subd. (g); see *School Committee of the Town of Burlington, Massachusetts v. Dept. of Education* (1985) 471 U.S. 359, 369 [105 S.Ct. 1996, 85 L.Ed.2d 385] (*Burlington*).) This broad equitable authority extends to an ALJ who hears and decides a special education administrative due process matter. (*Forest Grove School Dist. v. T.A.* (2009) 557 U.S. 230, 244, n. 11.)

When a school district fails to provide a FAPE to a student with a disability, the student is entitled to relief that is “appropriate” in light of the purposes of the IDEA. (*Burlington, supra*, 471 U.S. at p. 369-371.) Parents may be entitled to reimbursement for the costs of placement or services that they have independently obtained for their child when the school district has failed to provide a FAPE. (*Ibid*; *Student W. v. Puyallup School Dist.* (9th Cir. 1994) 31 F. 3d 1489, 1496.)

Student is entitled to a remedy in the form compensatory occupational therapy and Parents are entitled to reimbursement for the privately obtained occupational therapy services Student received from Port View. Student’s expert recommended 120 minutes weekly of individual occupational therapy services.

Newport-Mesa offered Student 30 minutes weekly of group occupational therapy during the regular school year and during extended school year. It is equitable to award Student 90 minutes of weekly occupational therapy services.

Dr. Smith-Roley's recommendation of two 60-minute individual occupational therapy sessions weekly was based on Student's identified needs and goals in sensory processing and self-regulation as well as motor planning, in addition to the fine motor goals Newport-Mesa proposed. Dr. Smith-Roley's opinion that one 30-minute weekly group occupational therapy session was not adequate to address all of Student's needs was persuasive. Therefore, Student is entitled to compensatory individual occupational therapy services for 13 weeks in 2020. There were four weeks in the 2019-2020 regular school year between May 20, 2020, when Newport-Mesa offered the insufficient occupational therapy services, through the end of the regular school year. There were four weeks of extended school year during the summer 2020. There were five weeks of school during the 2020-2021 school year before Parents withdrew Student to homeschool him. This totals 19.5 hours of occupational therapy.

Additionally, Parents are entitled to reimbursement for up to 90 minutes of weekly occupational therapy services Port View provided to Student from December 5, 2022, through the end of the 2022-2023 regular school year, totaling 23 weeks. Port View provided Student with two hours of individual occupational therapy per week working on

- fine motor,
- visual motor,
- motor planning,
- handwriting,
- bilateral coordination, and
- sensory regulation.

Port View's occupational therapy was \$110.29 an hour. Student submitted itemized invoices showing occupational therapy services and the associated cost from Port View for July 2022 through November 2022, however, did not provide itemized invoices for December 2022 through the end of the 2022-2023 regular school year. Ninety minutes of occupational therapy for 23 weeks at \$110.29 an hour equals \$3,805.

ORDER

1. Within 30 calendar days of this Decision, Newport-Mesa shall contract with a certified nonpublic agency to provide Student 19.5 hours of compensatory, individual occupational therapy. All hours will be available until June 30, 2024. All unused hours remaining on July 1, 2024, will be forfeited.
2. Within 30 days of this Decision, Parents must provide to Newport-Mesa proof of occupational therapy services and proof of payment to Port View for the occupational therapy services for December 2022 through June 2023.
3. Within 60 days of receipt of the documents showing proof of occupational therapy services and payment, Newport-Mesa shall reimburse Parents for up to 90 minutes of weekly occupational therapy services Student received from Port View from December 5, 2022, through the end of the 2022-2023 regular school year, in an amount not to exceed \$3,805.
4. All of Student's 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