

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

THE CONSOLIDATED MATTERS INVOLVING:
PARENTS ON BEHALF OF STUDENT, AND
SANTA ROSA ACADEMY CHARTER SCHOOL.

CASE NO. 2024100217

CASE NO. 2024100146

DECISION

JANUARY 23, 2025

On October 3, 2024, the Office of Administrative Hearings, called OAH, received a due process hearing request, also called a complaint, from Parents on behalf of Student, naming Santa Rosa Academy Charter School as respondent. Later that same day, OAH received a complaint from Santa Rosa Academy Charter School, naming Parents, on behalf of Student, as respondents. OAH consolidated the cases on October 7, 2024. Administrative Law Judge Penelope Pahl heard these matters via videoconference on November 19, 20, and 21, 2024, and December 3, 2024.

Attorneys Hamlet Yarianian, and Marian Saad, represented Student. Mother attended all hearing days on Student's behalf. Attorney Richard Hansberger represented Santa Rosa Academy. Santa Rosa Academy's Director of Educational Programs and Student Services, Anastasia Bradshaw, attended all hearing days on Santa Rosa Academy's behalf.

Following completion of evidence presentation, the case was continued to December 31, 2024, to allow the parties to file closing briefs. On December 31, 2024, the record was closed, and the matter was submitted for Decision.

MOTION TO EXCLUDE SANTA ROSA ACADEMY'S CLOSING BRIEF

At the close of the hearing, the parties were offered a choice of deadlines for their brief: December 31, 2024, or January 2, 2025. They were informed the undersigned would not read the briefs until January 2, 2025, due to the ALJ's winter holiday plans. The parties chose to file on December 31, 2024. January 1, 2025, was a state holiday and OAH was closed.

On January 2, 2025, Student filed a motion to exclude Santa Rosa Academy's closing brief on the grounds it had not been served on Student. On January 3, 2025, Santa Rosa Academy filed an opposition to Student's motion.

Student asserted that the failure to serve the brief deprived them of the ability to prepare a reply, if necessary. Student also contended that it was unfair and unequitable that Santa Rosa Academy could file a closing brief without serving Student. Santa Rosa Academy's opposition acknowledged that it failed to serve the brief in counsel's haste to finish tasks prior to leaving for a New Year holiday. Santa Rosa Academy's counsel apologized for the oversight, but also argued that the late service caused no prejudice

to Student. Santa Rosa Academy's closing brief was included as an exhibit to Santa Rosa Academy's opposition, to confirm service had been completed as of January 3, 2025.

Student's motion identifies possible prejudice, but does not identify any actual prejudice that occurred. The general rule in both federal and state forums is that purely technical violations of procedures, resulting in no prejudice, are not grounds for relief. (See, 34 C.F.R. § 300.513(a)(2), [prohibiting IDEA hearing decisions to be based on solely technical violations of the IDEA]; Ca Const., Art. 6 § 13.

[“No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.”].)

Here, Student did not lose any opportunity to respond due to Santa Rosa Academy's failure to serve the document on December 31, 2024.

Although Student did not receive his copy of Santa Rosa Academy's brief until January 3, 2025, he failed to prove any prejudice resulting from the late service. At no time was he deprived of an opportunity to file any document he saw fit. OAH retains jurisdiction over the case until a decision is issued. (See, Education Code §§ 56505, subd. (h), and subd. (k).) While reply briefs were not invited, had Student determined an urgent need to address a point made in Santa Rosa Academy's brief, nothing prohibited

Student from filing any reply, or other motion he deemed necessary, up to the date this Decision was issued. Student filed no additional brief or motion after receiving Santa Rosa Academy's closing brief on January 3, 2025.

Student failed to establish grounds to exclude Santa Rosa Academy's closing brief. Student's motion to exclude the brief is denied.

ISSUES

STUDENT'S ISSUES

Following discussion with the parties on the first day of hearing, the time frame for Student's Issue number one was clarified.

The issues heard were:

1. Did Santa Rosa Academy deny Student a free appropriate public education, or FAPE, from November 27, 2023, to October 3, 2024, by failing to implement the terms of the November 27, 2023 Final Settlement Agreement, between the parties, by failing to:
 - A. implement its offer of the Unique™ Learning System and Positivity program within 10 business days of execution of the Final Settlement Agreement;
 - B. contract with a nonpublic agency to provide Student 1,340 minutes weekly of specialized academic instruction; and
 - C. contract with a nonpublic agency before February 14, 2024, for music instruction?

2. Did Santa Rosa Academy deny Student a FAPE, during the 2023-2024 school year, by failing to offer Student, at the May 26, 2024 individualized education program, called IEP, team meeting:
 - A. assessments in assistive technology and functional behavior;
 - B. evidence-based academic intervention in reading, writing, and math;
 - C. counseling;
 - D. social skills;
 - E. one-to-one aide support with supervision by a Board Certified Behavior Analyst; and
 - F. extended school year?

SANTA ROSA ACADEMY'S ISSUE

Did Santa Rosa Academy's IEP, dated August 17, 2023, as amended up through May 28, 2024, offer Student a FAPE such that it may implement it without parental consent?

SANTA ROSA ACADEMY'S ISSUE DISMISSED

During the issue review, on the first day of hearing, Santa Rosa Academy's counsel requested that its issue be clarified by removing references to amendments. Counsel stated the IEP had not been amended.

Santa Rosa Academy's counsel was invited to provide legal authority allowing OAH to order implementation of an expired IEP without Parents' consent. Counsel was unable to do so. The undersigned noted that, as originally stated, the issue included IEP amendments that had the possibility, depending on the evidence, of still being operative.

However, as revised by Counsel, removing reference to amendments, it did not. There are limited grounds on which a local educational agency can seek action by OAH on an IEP. (Ed. Code § 56501.) Santa Rosa Academy offered neither legal authority for ordering implementation of an IEP that had expired on its face; nor an offer of proof of facts indicating the IEP being offered was still operative.

Therefore, the undersigned dismissed the issue for lack of jurisdiction, *sua sponte*. No objection was made by either party.

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, also called the IDEA, its regulations, and California special education 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 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 free appropriate public education, referred to as FAPE, to the child. (20 U.S.C.

§ 1415(b)(6) & (f); 34 C.F.R. § 300.511 (2006); 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. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).) Student, as the only party remaining with issues to be heard, has the burden of proof by a preponderance of the evidence. (*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).) 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).)

At the time of the hearing, Student was 13 years old and in eighth grade. Student was enrolled at Santa Rosa Academy at all relevant times. Student was eligible for special education under the categories of autism and intellectual disability.

LEGAL FRAMEWORK

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 (2006).) 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 (2007), 300.321 (2006), and 300.501 (2006).)

In general, a child eligible for special education must be provided access to specialized instruction and related services, which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the*

Hendrick Hudson Central School District. v. Rowley (1982) 458 U.S. 176, 201-204 [102 S.Ct. 3034, 73 L.Ed.2d 690]; *Endrew F. v. Douglas County School District RE-1* (2017) 580 U.S. 386, 402; 137 S. Ct. 988; 197 L. Ed. 335.)

ISSUE 1: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE, FROM NOVEMBER 27, 2023, TO OCTOBER 3, 2024, BY FAILING TO IMPLEMENT THE TERMS OF THE NOVEMBER 27, 2023 FINAL SETTLEMENT AGREEMENT BETWEEN THE PARTIES, BY FAILING TO

- A. IMPLEMENT ITS OFFER OF THE UNIQUE LEARNING SYSTEM AND POSITIVITY PROGRAM WITHIN 10 BUSINESS DAYS OF EXECUTION OF THE FINAL SETTLEMENT AGREEMENT;
- B. CONTRACT WITH A NONPUBLIC AGENCY TO PROVIDE STUDENT 1,340 MINUTES WEEKLY OF SPECIALIZED ACADEMIC INSTRUCTION; AND
- C. CONTRACT WITH A NONPUBLIC AGENCY BEFORE FEBRUARY 14, 2024, FOR MUSIC INSTRUCTION?

STUDENT'S PLACEMENT AT SANTA ROSA ACADEMY

At the time of the November 27, 2023 settlement agreement discussions, Student was in the first half of his seventh grade year. He had transferred to Santa Rosa Academy from the Romoland school district in January of 2023.

At the beginning of the 2023-2024 school year, Student was enrolled in Santa Rosa Academy School on the "white track." White track, was a designation requiring Student to attend school in-person two days a week. The other days of the week, Student completed his work at home, doing independent study.

Student is on the autism spectrum and is intellectually disabled. He is minimally verbal, speaking only at a whisper when he does speak. At the time of the settlement agreement, Student demonstrated significant delays in core academics, including reading, writing, and math, compared to his peers. Student struggled with attending school in-person. He engaged in school avoidance and demonstrated anxiety on days he was expected on campus. As a result, he missed many days of school.

On November 27, 2023, the parties executed a settlement agreement and release of claims to resolve a prior case between the parties, OAH Case 2023100084. The contract released all claims through the execution date of the settlement agreement. Student dismissed OAH Case 2023100084 against Santa Rosa Academy in writing, with prejudice, on November 28, 2023.

Following dismissal of OAH Case 2023100084, the parties had disagreements regarding how the settlement agreement should be implemented. They engaged in six IEP team meetings during the 2023-2024 school year, in an effort to resolve their differences, with no success.

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On October 3, 2024, Student filed a new case against Santa Rosa Academy, asserting, among other issues, a denial of FAPE due to Santa Rosa Academy's failure to comply with the November 27, 2023 settlement agreement as to three services:

- 1) implementation of the Unique Learning System within 10 business days of execution of the contract;
- 2) provision of 1,340 minutes of specialized academic instruction; and
- 3) provision of music instruction prior to February 14, 2024.

OAH LACKS JURISDICTION TO HEAR A DISPUTE INVOLVING A BREACH OF CONTRACT PERTAINING TO A SETTLEMENT AGREEMENT.

While Student's brief makes a conclusory reference to the case of *Pedraza v. Alameda Unified School District*, (N.D. Cal. 2007, No. C 05-04977 VRW) 2007 WL 949693 (unpub.opn.), neither party's closing brief provided an analysis of the threshold jurisdictional issue in this case. The question of whether OAH has jurisdiction to hear a dispute involving the enforcement of a settlement agreement must be resolved before Student's first issue can be addressed. In this case, Student failed to prove that OAH has jurisdiction to enforce the November 27, 2023 settlement agreement.

OAH's lack of jurisdiction to enforce settlement agreements was addressed by the Ninth circuit court of appeals in the case of *Wyner v. Manhattan Beach Unified School District*, (9th Cir. 2000) 223 F. 3d 1026. The *Wyner* case involved a settlement agreement that was reached in the middle of a due process hearing conducted by OAH's predecessor hearing agency, the Special Education Hearing Office. When

the parties in *Wyner* announced, mid-hearing, that they had reached a settlement, the hearing officer ended the hearing with an order that the parties abide by the settlement agreement. Student later filed another request for due process hearing seeking enforcement of the hearing officer's order, alleging that Manhattan Beach did not comply with the settlement agreement terms.

The Special Education Hearing Office dismissed the Student's second request for due process on the grounds that, pursuant to California Education Code section 56505, its jurisdiction did not include the ability to enforce the original order to comply with the settlement agreement once the first case had been dismissed. Affirming the district court decision, the Ninth Circuit declared that the tribunal's jurisdiction was limited to due process claims arising under the IDEA, as specified in California Education Code section 56501, subdivision (a). (*Wyner, supra*, 223 F. 3d at p. 1029.)

Pursuant to *Wyner, supra*, enforcement of a settlement agreement is not one of the enumerated bases for OAH jurisdiction in special education cases. The Ninth Circuit found that a subsequent due process hearing was not available to address the school district's alleged non-compliance with the settlement agreement. The Court confirmed Student had available remedies to appeal directly to state or federal courts, or via a State of California compliance complaint with the Department of Education, under California Code of Regulations, title 5, section 4650. (*Id.* at p. 1030.)

Here, in an effort to plead the alleged settlement agreement non-compliance as an IDEA violation, Student's issue number one asserts that Santa Rosa Academy's failure to comply with the November 27, 2023 settlement agreement terms denied Student a FAPE. A California federal district court addressed a similar claim in an unpublished decision. The *Pedraza* case, *supra*, addressed whether an allegation that Alameda

Unified School District denied Student a FAPE by failing to comply with a settlement agreement, constituted a violation of the IDEA, and thus fell under OAH jurisdiction. In the specific circumstances of the *Pedraza* case, which are inapplicable here, the District Court found jurisdiction.

In finding jurisdiction, the *Pedraza* Court focused on the parties' express acknowledgement in the settlement agreement, that the services the school district agreed to provide, constituted a FAPE for the 2003-2004 school year. The District Court found, therefore, that Alameda Unified School District's failure to comply with the agreement could constitute an IDEA violation, which would bring it under OAH jurisdiction. (*Pedraza, supra*, at p 4.) As a result, the case was not dismissed.

The facts of this case do not mirror *Pedraza*. The November 27, 2023 settlement agreement does not include any declaration that the services described offered Student a FAPE. Both parties were represented by counsel in this case. Had this document been intended to constitute FAPE, such an acknowledgment could have been included among the settlement agreement terms. No such term was included. Thus, OAH lacks jurisdiction over this settlement agreement under these facts.

Further, a review of the contract as a whole, does not support the conclusion that the parties' intention was that the settlement terms constituted a FAPE offer. There is too much uncertainty as to how the terms would be implemented. This is demonstrated by the lack of clarity regarding the operative IEP referred to in the settlement agreement; the deferral of significant details to future discussions; as well as contingencies regarding how, and when the new, primary curriculum would be implemented.

The settlement agreement stated that Santa Rosa Academy “agrees that implementation of the Unique Learning System and Positivity Program will begin within 10 business days of execution of the agreement.” The contract did not define what that meant. Email correspondence between Anastasia Bradshaw and Father established that Santa Rosa Academy forwarded Parents’ signed homeschool agreement to Unique on November 30, 2023, with the instruction that the Parents’ curriculum access be established. That was well within 10 business days of the agreement being signed. However, the contract terms failed to define what “implementation will begin” meant in the homeschool context.

With similar uncertainty, while the contract indicated specialized academic instruction would be “per the IEP,” it does not identify the IEP date being referenced. Student’s then operable IEP was dated August 17, 2023. However, when arguing that Student’s music instruction was delayed, Student contended the IEP referenced in the settlement agreement was the one dated April 22, 2022, because the August 17, 2023 IEP does not offer music instruction. The April 22, 2022 IEP document was not offered in evidence and no one testified that the settlement agreement reference regarding music instruction was to the April 22, 2022 IEP.

Compounding the lack of clarity, the August 17, 2023 IEP offer was written for a Student attending school in person, full time, in a special day class. Parents agreed to the IEP, except for the special day class setting. Student settled the prior request for due process hearing with the November 27, 2023 settlement agreement. However, the settlement agreement did not specify how the settlement terms would be implemented in juxtaposition with Student’s then current IEP services, or how the terms would be implemented in the homeschool, independent study context. Indeed, it was not certain that the settlement agreement’s reference to “per the IEP” or “per the Student’s IEP,”

was intended to refer to the August 17, 2023 IEP. The date of the referenced IEP was not stated, and given the argument in Student's closing brief, referencing the April 22, 2022 IEP in relation to Student's music instruction, was not clear.

The uncertainty and inconsistency of the settlement agreement, as it related to Student's educational program, remained to be resolved by the parties after the settlement agreement was executed. This supports the conclusion that the settlement agreement terms were not intended to be a FAPE offer.

When, as here, settlement agreement terms have not been agreed to constitute FAPE, it is merely a contract to settle the prior case. OAH does not have jurisdiction to resolve contract enforcement actions for cases that were dismissed, following a negotiated settlement agreement. Here, Student dismissed OAH Case 2023100084 with prejudice on November 28, 2023. OAH does not have jurisdiction over Student's issue number one.

Student may pursue enforcement of the settlement agreement through the state or federal courts, as OAH jurisdiction over the case this settlement agreement resolved ended with the dismissal of the underlying request for due process. (Ed. Code § 56506, subd. (k).) Or, as in *Wyner*, litigants have the ability to seek intervention by California's Department of Education to enforce a mediation agreement. (Cal. Code Regs., tit. 5, § 4650, subd. (a)(3).)

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ISSUE 2A: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY FAILING TO OFFER STUDENT ASSESSMENTS IN ASSISTIVE TECHNOLOGY AND FUNCTIONAL BEHAVIOR, AT THE MAY 28, 2024 IEP TEAM MEETING?

Student asserts that Santa Rosa Academy's assessment plan, which he acknowledges offered both assistive technology and functional behavior assessments, was inadequate because the plan included other assessments to which Parents did not want to consent. Santa Rosa Academy argues Parents would not consent to the offered assistive technology and functional behavior assessments.

The IDEA requires that, if a school district has notice that a child has displayed symptoms of a disability that is impairing educational performance, it must assess that child in all areas of that disability using the thorough and reliable procedures specified in the Act. (20 U.S.C. 1401(3); Ed. Code § 56026; *Timothy O. v. Paso Robles Unified School District* (9th Cir. 2016) 822 F.3d 1105, 1119.) The school district must assess, or reassess, the educational needs of a child with a disability if requested by Parent, or a teacher; or if the district determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant an evaluation. (Ed. Code, § 56381(a).) The parent or guardian of the pupil shall be given a written, proposed assessment plan within 15 days of the referral for assessment, not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five school days from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. (Ed Code § 56321, subd. (a).)

As an initial matter, the evidence established that the IEP team meeting in question did not take place on May 26, 2024, as stated in Student's original issue statement. May 26, 2024, was a Sunday. May 27, 2024, was the Memorial Day school holiday. The IEP team meeting actually took place on May 28, 2024. The accurate date of the meeting will be referenced when discussing this issue from now forward, as it has been in the issue statement at the beginning of this section.

Changing focus to the issue substance, Student failed to meet his burden of establishing Santa Rosa Academy failed to offer timely functional behavior and assistive technology assessments. Student failed to prove that Santa Rosa Academy was required to give the assessment plan to Parents at the May 28, 2024 IEP team meeting. On May 28, 2024, Santa Rosa Academy sent Parents an email offering an assessment plan that included assistive technology and functional behavior assessments. Santa Rosa Academy was required to give Parents the assessment plan within 15 days of the "referral" that is, the request to assess from Parent, a teacher or the Santa Rosa Academy's knowledge that an assessment was needed. (Ed Code § 56321, subd. (a).) Student failed to prove the assessment plan was untimely.

Student also failed to prove the requested functional behavior and assistive technology assessments were not offered. Mother acknowledged during her testimony that the assessments were included in the May 28, 2024 assessment plan. Mother testified that Parents did not consent to the assessment plan because they thought it was a "take it or leave it document." Mother said she and Father would have consented to the assessments for assistive technology and functional behavior, but did not want the other assessments offered. In his closing brief, Student argued, without evidence, that "Santa Rosa Academy refused to amend the assessment plan." During the hearing, Mother testified that the May 28, 2024 assessment plan, was not discussed outside the

May 28, 2024 email Parents received from Santa Rosa Academy. If the assessment plan was not discussed after it was received via email, Student's assertion cannot be accurate. No other evidence that Santa Rosa refused to amend the assessment plan was offered. Most importantly, however, the assessment plan document itself informed Parents of the option to discuss the assessment plan before signing it.

The assessment plan, on its face, is described as offering a "proposed assessment." The form also gives Parents several signing options, including one stating, "I prefer to discuss the assessment plan before I give approval." The language of the form, and references to Parent's rights, undermine Mother's testimony that consent to the assessment plan was a "take it or leave it" option. Furthermore, Parents knew how to engage with the Charter School based on evidence of prior requests for due process regarding Student's special education services, involving both Santa Rosa Academy and Student's prior school district.

The evidence established that Santa Rosa did not have an obligation to offer Student an assessment plan during the May 28, 2024, IEP team meeting. Additionally, the evidence established that Santa Rosa did provide Parents an assessment plan on May 28, 2024, offering to assess Student in assistive technology and functional behavior. Student also failed to establish that Santa Rosa Academy "refused to offer an assessment plan Parents would agree to sign." This was first raised in Student's closing brief and no facts in evidence supported this assertion. Parent did not testify that Santa Rosa Academy refused to offer a different assessment plan at hearing, and offered no other evidence supporting this contention.

As a result, Student failed to prove Santa Rosa Academy denied Student a FAPE during the 2023-2024 school year by failing to offer assistive technology or functional behavior assessments at the May 28, 2024 IEP team meeting.

ISSUE 2B: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY FAILING TO OFFER STUDENT EVIDENCE-BASED ACADEMIC INTERVENTION IN READING, WRITING, AND MATH, AT THE MAY 28, 2024 IEP, TEAM MEETING?

Student asserts that Santa Rosa Academy failed to offer the evidence-based academic intervention in reading, writing, and math that Student's expert psychologist, Dr. Aileen Arratoonian, recommended, at the May 28, 2024 IEP team meeting. Dr. Arratoonian, Student's independent psychoeducational assessor, is licensed in California, and practices as a clinical psychologist specializing in pediatric psychology. The parties stipulated to Dr. Arratoonian's status as an expert. Santa Rosa Academy did not address this issue in their closing brief, specifically; but contends they considered all recommendations Dr. Arratoonian made.

Student's last annual offer of FAPE, prior to the May 28, 2024 IEP team meeting, was August 17, 2023. Parents consented to the offer with the exception of the proposed placement in a special day classroom. Therefore, the terms consented to were operative at the time of the May 28, 2024 IEP team meeting.

Student failed to prove that the need to change to a different, specified curriculum, was established at the May 28, 2024 IEP team meeting. There was no dispute Student had needs in reading, writing, and math. There was also no dispute that Santa Rosa Academy offered goals and made a curriculum available to Student to

meet those needs in the August 17, 2023 IEP. Student offered no evidence that the curriculum Santa Rosa Academy was using was not evidence based. Student had the burden of proving that any specific curriculum he wanted, was necessary for him to receive FAPE.

The choice of methodology in providing special education and related services is the prerogative of the school district. (*C.P. v. Prescott Unified School District*, (9th Cir. 2011) 31 F.3d 1117, 1122.) The IDEA requires districts to establish an IEP that includes a statement of special education and related services “based on peer-reviewed research to the extent practicable” (20 U.S.C. §1414(d)(1)(A)(i); Ed. Code §56345, subd. (a)(4).) School districts are “entitled to deference in deciding what programming is appropriate as a matter of educational policy.” (*J. L. v. Mercer Island Sch. Dist.* (9th Cir. 2010) 592 F.3d 938, 945, n.5.) School officials, therefore, retain maximum flexibility to tailor education programs to the needs of each child with special education needs. (*J.W. ex rel. J.E.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 450.) A district is not required to use the methodology a parent prefers when providing special-education services for a child. Districts need not specify a particular instructional method, unless that method is necessary to enable a student to receive a FAPE. (*Mercer Island*, *supra*, 592 F.3d at 952.)

Here, Student needed to establish that, as of May 28, 2024, a specific change to the curriculum offered in his operative IEP was required to enable Student to receive a FAPE. Whether or not the parties had agreed to the Unique Learning System and Positivity program in a settlement agreement is outside OAH jurisdiction, as discussed previously, and does not form part of the analysis of this issue.

Student did not prove that a different curriculum than the one offered by Santa Rosa Academy in the August 17, 2023 IEP was necessary for Student to receive a FAPE. Student did not prove that Santa Rosa Academy knew Student required the Unique Learning System and Positivity program, or any other specific curriculum, in order for Student to receive a FAPE at the time of the May 28, 2024 IEP team meeting. To the contrary, the evidence established the parties continued to believe Santa Rosa Academy's curriculum offered Student educational benefit. The parties agreed to continue to use Santa Rosa Academy's curriculum, in the November 27, 2023 settlement agreement, until the parties could become familiar with how to use the Unique Learning System. The agreement also acknowledged that the parties did not know how long that would take.

Dr. Arratoonian's May 24, 2024 assessment report was revised two days after her original report. The "addendum" included two italicized comments Parents provided about the Unique Learning System in the "Recommendations" section of the report. Dr. Arratoonian was unfamiliar with The Unique Learning System prior to her conversations with Parents. Dr. Arratoonian did confirm that "the Unique learning system is an evidence-based approach to support the learning needs of students with disabilities and utilizes a standards-based curriculum and assessment system."

At the May 28, 2024 IEP team meeting, Dr. Arratoonian described Student as a child with significantly impaired neurocognitive skills, impaired language and auditory processing skills, variable visual processing skills, impaired executive functioning skills, and impaired sensorimotor skills, when compared to same age peers.

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Dr. Arratoonian found that Student had needs in reading, writing, and math. Testing revealed that Student's broad reading skills were significantly delayed. Dr. Arratoonian determined his reading to be at a grade equivalent to a first grader, in the first two months of instruction; with writing abilities slightly lower, at first grade, first month. Student's broad math skills were between kindergarten and first grade. No evidence contradicted Dr. Arratoonian's findings as to Student's academic abilities or needs. However, Student failed to offer evidence of how the curriculum he was getting failed to offer FAPE, or evidence of a specific program, or programs, necessary to provide him a FAPE in the areas of reading, writing, and math.

During hearing, Dr. Arratoonian admitted she could not recall recommending any particular curriculum to the IEP team when she presented her assessment report at the May 28, 2024 IEP team meeting. Rather, she recommended the type of educational environment to consider and supports he would need.

Dr. Arratoonian testified that she was not recommending the Unique Learning System. She had never recommended the Unique curriculum and reiterated that she was not familiar with it. She did not recommend any particular curriculum or program when she reported to the May 28, 2024 IEP team. Nor did she recommend a specific number of instructional hours needed to meet Student's needs in her report or, to her recollection, at the May 28, 2024 IEP team meeting.

Student failed to meet his burden of proving that Santa Rosa Academy denied him a FAPE during the 2023-2024 school year, by failing to offer him a specific, evidence-based, academic intervention in reading, writing, and math, necessary for him to receive a FAPE, at the May 28, 2024 IEP team meeting.

ISSUES 2C AND D: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY FAILING TO OFFER STUDENT COUNSELING AND SOCIAL SKILLS TRAINING AT THE MAY 28, 2024 IEP TEAM MEETING?

Student asserts Santa Rosa Academy failed to offer counseling and social skills recommended by Dr. Arratoonian at the May 28, 2024 IEP team meeting. Santa Rosa Academy argues those recommendations were not discussed at the May 28, 2024 IEP team meeting. Santa Rosa Academy contends another IEP team meeting was scheduled to discuss Dr. Arratoonian's last recommendations, but Parents failed to attend. Santa Rosa Academy's contentions are based on facts not in evidence.

No evidence was offered that Dr. Arratoonian did not complete her report regarding her assessment at the May 28, 2024 IEP team meeting. To the contrary, extensive notes, prepared by Santa Rosa Academy special education coordinator Marek give detailed statements of Dr. Arratoonian's report regarding her testing and her recommendations. According to Marek, the IEP team meeting notes were based on a recording of the meeting. The accuracy of the May 28, 2024 IEP team meeting notes was not challenged, either during examination of Marek, examination of any other witness, or by any other evidence.

The "educational benefit" to be provided to a child requiring special education is not limited to addressing the child's academic needs, but also social and emotional needs that affect academic progress, school behavior, and socialization. (*County of San Diego v. California Special Education Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467.)

The failure to offer services to address established special education needs is a substantive violation of the IDEA and California state special education laws. (20 U.S.C. 1414(d)(1)(A)(i)(III); Ed. Code §56345(a)(4).)

COUNSELING

Dr. Arratoonian's psychoeducational report recommended that student receive counseling services to address parent and teacher concerns regarding anxiety. Dr. Arratoonian believed Student's anxiety was related to school-related demands. While Student did not prove that all of Student's anxiety stemmed from the educational demands, the evidence did establish that Student suffered from school-related anxiety.

Rating scales completed by teachers and Father, at Dr. Arratoonian's request, also confirmed clinically significant concerns regarding

- withdrawal,
- anxiety,
- depression,
- somatization, and
- atypical behaviors.

Student's tutor, credentialed special education teacher Nancy Garcia, informed Dr. Arratoonian that Student was so afraid of getting a sore throat, he would not swallow his saliva. He was observed to periodically spit into a cup during Dr. Arratoonian's observations of Student's session with the tutor and during testing.

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Parents and teachers also noted clinically significant concerns regarding adaptive skills. All raters found that Student was in the delayed range in conceptual, social, and practical skills. Dr. Arratoonian noted both teachers' ratings should be interpreted with caution due to the high number of "guessed responses," a statement that was neither explained in the report or during her testimony. However, the teacher's ratings align with Parents, in most areas.

Dr. Arratoonian recommended that counseling be offered so Student could develop adaptive coping skills, and positive self-concept in the school setting. Dr. Arratoonian also noted a range of therapies that are less dependent on verbal communication, that might benefit Student. Dr. Arratoonian's recommendation to the IEP team included no information as to the needed frequency, or duration of counseling services. Nor did she recommend a preferred type of counseling, despite identifying a number of different types of therapy that might help someone, like Student, with limited verbal skills.

Santa Rosa Academy had an obligation to provide a needed service to Student, and failed to do so, which was a substantive FAPE denial. (20 U.S.C. 1414(d)(1)(A)(i)(III); Ed. Code §56345(a)(4).) A review of the original request for due process established that this issue was not limited to the 2023-2024 school year. Instead, it asserted a FAPE denial due to Santa Rosa Academy's failure to make offers based on Dr. Arratoonian's recommendations at the May 28, 2024 IEP. The evidence established that Student continued to have an ongoing need for counseling throughout the time period at issue, specifically through October 3, 2024.

Thus, Student established Santa Rosa Academy denied him a FAPE by failing to offer counseling services at the May 28, 2024 IEP team meeting, through October 3, 2024.

SOCIAL SKILLS

Based on Parent and teacher ratings on social-emotional rating scales, as well as her interviews with Parents and teachers, Dr. Arratoonian also recommended attendance at a school-based social skills group to improve Student's social skills. Specifically, Dr. Arratoonian determined Student needed to:

- improve peer and adult interactions and relationships;
- learn problem solving skills; and
- learn and practice self-management of behaviors.

Student is mostly non-verbal, whispering, at best, when he does communicate. However, Student had developed means of letting people know he was displeased or overwhelmed. For instance, Student rejected all positive reinforcement, wagging his finger to indicate "no" at anyone who tried to praise his performance. He had poor eye contact. He pursed his lips and shook his finger to protest being given instructions. He closes his eyes when a request is perceived as overwhelming. Dr. Arratoonian reported that she observed no peer interactions. However, evidence established that Student's on-site school attendance had been limited since he started at Santa Rosa Academy, and, according to Parent, going to school made him anxious. As stated earlier, Student's adaptive skills were also delayed with significant limitations noted in the areas of communication, community use, school living, leisure skills, self-care, self-direction and social skills, among others.

Student's social skills needs were undisputed. Santa Rosa Academy offered no evidence contradicting Dr. Arratoonian's opinions regarding Student's social skills needs. Nor did Santa Rosa Academy prove that Student did not have social skills needs. Student proved that Santa Rosa Academy had an obligation to offer Student social skills training because he had social skills needs. (20 U.S.C. 1414(d)(1)(A)(i)(III); Ed. Code §56345(a)(4).)

Dr. Arratoonian recommended a school-based social skills group to work on Student's educationally related social skills needs in the school environment. Dr. Arratoonian recommended that Student required an approach of, "teach, rehearse, practice and model in natural settings" the skills of turn-taking, responding, waiting, greeting, and joining others. Dr. Arratoonian did not specify the frequency or duration of an appropriate social skills training program to meet Student's needs. Specific focus, she asserted, should be on the development of cooperative interaction skills. The evidence established that Santa Rosa Academy did not offer social skills training at the May 28, 2024 IEP team meeting, and Student's need continued, unmet through October 3, 2024.

Student met his burden of proving that he was denied a FAPE due to Santa Rosa Academy's failure to provide social skills services to Student at the May 28, 2024 IEP meeting, through October 3, 2024.

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ISSUES 2E: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY FAILING TO OFFER STUDENT ONE-TO-ONE AIDE SUPPORT WITH SUPERVISION BY A BOARD CERTIFIED BEHAVIOR ANALYST AT THE MAY 28, 2024 IEP TEAM MEETING?

Student asserts that Dr. Arratoonian's independent psychoeducational assessment supported her recommendation that Student receive one-to-one behavior aide support. Santa Rosa Academy argues that it already agreed to provide aide support when Student was on campus, and it was willing to offer the supervision of a Board Certified Behavior Analyst, but Student did not come to campus.

If a student's behavior impedes his or her learning, or that of others, the IEP team must consider, when appropriate, "strategies, including positive behavioral interventions, strategies, and supports to address that behavior." (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i) (2006); Ed. Code, § 56341.1, subd.(b)(1).)

Student proved that Santa Rosa Academy needed to offer Student one-to-one aide support with supervision, during instruction, at the May 28, 2024 IEP team meeting. At hearing, Dr. Arratoonian confirmed the opinion in her report, that she "strongly recommended" that Student receive evidence-based, one-on-one behavioral intervention services during instruction. Dr. Arratoonian also recommended that a Board Certified Behavior Analyst supervise the behavioral intervention aide. Dr. Arratoonian recommended that program goals include

- compliance with non-preferred tasks;
- social initiation skills with peers and adults;

- tolerating certain demands and/or verbal praise; and
- self-advocacy skills.

She offered some examples of behavior intervention options, but did not recommend a particular approach. Dr. Arratoonian did not offer any opinions regarding the frequency or duration of the recommended behavior intervention services.

Santa Rosa Academy offered no evidence that Dr. Arratoonian's recommendations for one-to-one behavioral interventions during instruction were not necessary. The recommendation was not limited to times when Student was at Santa Rosa Academy's campus. Nor did Santa Rosa Academy offer any evidence that Board Certified Behavior Analyst supervision of the recommended behavior aide was unnecessary.

However, despite the proven need for behavior intervention services, the evidence established that no IEP offer for Board Certified Behavior Analyst supervised, one-to-one behavior intervention services, to be available during Student's instruction, was offered. That Santa Rosa Academy stood willing to offer Board Certified Behavior Analyst services is not the same as actually offering them. Santa Rosa Academy's failure to offer Student needed special education and related services, specifically one-to-one aide support and Board Certified Behavior Analyst supervision, is a substantive violation of the IDEA and, thus a denial of FAPE. The evidence established that Student continued to demonstrate a need for one-to-one aide support and BCBA supervision from May 28, 2024 through October 3, 2024. Santa Rosa Academy did not dispute Student's need for these services.

ISSUES 2F: DID SANTA ROSA ACADEMY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY FAILING TO OFFER STUDENT EXTENDED SCHOOL YEAR AT THE MAY 28, 2024 IEP TEAM MEETING?

Student contends he should have been offered extended school year services because of "clear evidence of regression." Student misstates the evidence when asserting that Dr Arratoonian "cited Student's consistent difficult maintaining progress after breaks and memory deficits documents in the NEPSY-II assessment." Santa Rosa Academy argues that Student failed to prove he needed extended school year services. Santa Rosa Academy asserts that Dr. Arratoonian testified only that extended school year services would be appropriate if data supported it, and Student offered no evidence of data supporting a need for extended school year services.

An IEP team may offer extended school year services to individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have disabilities which are likely to continue indefinitely or for a prolonged period, and for whom interruption of the pupil's educational programming may cause regression. These services are available to assist students who have limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition. (34 C.F.R. § 300.106; Cal. Code Regs. tit. 5 § 3043.)

Dr. Arratoonian did not recommend extended school year services. Dr. Arratoonian recommended that Student's academic progress be monitored, and, if skill loss was noted over holidays or breaks, strongly recommended that extended

school year programming continue to be considered to maintain progress and skill development. She testified that she did not test for retention or memory, and did not have a recommendation beyond the one made, that is that extended school year services be considered if indicated.

Student failed to prove that he needed extended school year instruction. No expert or other credible witness testified that he demonstrated a need for extended school year services due to a concern regarding regression during extended breaks from school. Student offered no other credible evidence that interruption of the pupil's educational programming over the summer might cause regression; or impede his ability to maintain progress and skill development.

While Mother testified that she thought Student should have extended school year services, she argued for them based on a compensatory education theory. Mother believed extended school year services should have been offered due to the services Student was arguing were lost during the 2023-2024 school year. While IEP notes indicated Father thought Student had retention deficits, Father did not testify, rendering the uncorroborated information an unreliable basis for making a finding of fact. (Cal. Code Regs., tit. 5, § 3082 subd. (b).)

Student failed to prove that Santa Rosa Academy denied him a FAPE, during the 2023-2024 school year, by failing to offer extended school year services at the May 28, 2024 IEP team meeting.

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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

Student failed to prove that OAH had jurisdiction to hear a dispute involving enforcement of the November 27, 2023 settlement agreement.

Santa Rosa Academy prevailed on Issue 1.

ISSUE 2, SUBSECTION A:

Student failed to prove he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer assistive technology and functional behavior assessments at the May 28, 2024 IEP team meeting.

Santa Rosa Academy prevailed on Issue 2A.

ISSUE 2, SUBSECTION B:

Student failed to prove he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer evidence-based academic intervention in reading, writing, and math at the May 28, 2024 IEP team meeting.

Santa Rosa Academy prevailed on Issue 2B.

ISSUE 2, SUBSECTION C:

Student proved he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer counseling services at the May 28, 2024 IEP team meeting.

Student prevailed on Issue 2C.

ISSUE 2, SUBSECTION D:

Student proved he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer social skills training services at the May 28, 2024 IEP team meeting.

Student prevailed on Issue 2D.

ISSUE 2, SUBSECTION E:

Student proved he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer one-to-one aide support with supervision by a Board Certified Behavior Analyst at the May 28, 2024 IEP team meeting.

Student prevailed on Issue 2E.

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ISSUE 2, SUBSECTION F:

Student failed to prove he was denied FAPE during the 2023-2024 school year, due to Santa Rosa Academy's failure to offer extended school year services at the May 28, 2024 IEP team meeting.

Santa Rose Academy prevailed on Issue 2F.

REMEDIES

Administrative Law Judges have broad latitude to fashion appropriate equitable remedies for a FAPE denial. (*School Comm. of Burlington v. Department of Education* (1985) 471 U.S. 359, 370 [105 S. Ct. 1996, 85 L. Ed. 2d 385 (Burlington)]; *Parents of Student W. v. Puyallup School District, No. 3* (9th Cir. 1994) 31 F.3d 1489, 1496.) In remedying a FAPE denial, the student is entitled to relief that is "appropriate" in light of the purposes of the IDEA, specifically providing Student with a FAPE which emphasizes special education and related services to meet Student's unique needs. (20 U.S.C. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3) (2006); *Burlington, supra*, 471 U.S. 359, 374.)

In this case, Santa Rosa Academy failed to offer needed services to Student in counseling, social skills, and behavior intervention. Student failed to prove the amount, frequency or duration of the services needed.

However, based on the unmet need, Student is entitled to an equitable remedy. Therefore, an equitably appropriate amount of services for the time period from May 28, 2024, through October 3, 2024, must be determined. Although the wording of Issue 2 appears to limit the applicable timeframe to the 2023-2024 school year, reference to the original request for due process reveals that the issue included requesting a remedy

from May 28, 2024, forward. Therefore, the remedy period for Issue 2 appropriately spans the period from May 28, 2024, through the date of filing, which was October 3, 2024. This period of time will not include extended school year 2024, as Student failed to prove he needed extended school year services in 2024.

COUNSELING

In determining the appropriate amount of counseling services, Student's extensive need for counseling, and the lack of any provision for counseling services at all, is taken into consideration, as is his limited attention span. As an equitable remedy, Student is awarded two, 30-minute, educationally related counseling sessions per week for eleven weeks, for a total of 11 [eleven] hours, which is the number of Santa Rosa Academy school weeks Student could have received services from May 28, 2024, through October 3, 2024, without including extended school year.

These services will be provided by an appropriately licensed mental health care provider of Parent's choice, who charges no more than \$200 per hour, which is a rate within the range of rates commonly charged for private mental health services through a nonpublic agency. The counseling will address school-based anxiety, or other social emotional interference with Student's ability to access his education.

Given that some private mental health services providers do not contract with school districts, Parents shall have the option of reimbursement for mental health services, or selecting a provider willing to contract with Santa Rosa Academy for direct payment. If reimbursement is chosen, Parents shall be reimbursed for mental health care services within 30 days of submission of proof of payment and proof of attendance at the appointments. If direct payment is chosen, Santa Rosa Academy shall contact,

and offer to contract with the mental health care provider of Parents' choice, within 20 school days of the date of Parents' written notice of the name of their chosen provider to the current Director of Educational Programs and Student Services. Santa Rosa Academy shall notify Parents within 10 school days of receipt of any notification that a selected service provider has refused to sign the charter school's contract; and give Parents the option to use the provider on a reimbursement basis.

As this is a compensatory remedy, these services must be provided in addition to any similar services, if similar services are offered in Student's IEP to meet Student's current needs. Student's access to these compensatory hours expires on June 30, 2026.

SOCIAL SKILLS

Student did not prove the frequency or duration of social skills services needed to compensate him for the failure to provide services during the FAPE denial timeframe.

However, Dr. Arratoonian recommended a school-based social skills group to help Student develop tolerance for being at school and to learn skills necessary to interact with others and advocate for himself. Given the lack of evidence regarding the frequency and duration of services required, as an equitable remedy, to compensate for failing to provide services from May 28, 2024, through October 3, 2024, not including the extended school year, Student is awarded one hour per week of social skills training, for 11 [eleven] weeks.

These services may be offered in a single, one-hour group session, or in one 30-minute individual and one 30-minute group session, at the professional's discretion. Social skills training must be provided by a licensed, credentialed Santa Rosa Academy speech therapist or school psychologist. Using Santa Rosa Academy staff will offer

Student the opportunity to develop tolerance for the school campus while interacting with peers in an environment that is already somewhat familiar, as recommended by Student's expert witness. The social skills services must begin no later than 30 school days after the date of this order.

As this is a compensatory remedy, these services must be provided in addition to any similar services, if similar services are offered in Student's IEP to meet Student's current needs.

BEHAVIOR INTERVENTION SERVICES

Dr. Arratoonian recommended that Student have a one-to-one behavior aide when engaging in instruction. She recommended the aide be supervised by a Board Certified Behavior Analyst.

Student did not prove the number of hours of behavior aide support he should have received between May 28, 2024, and October 3, 2024, or the cost of the services. Nor did Student offer evidence of the number of Board Certified Behavior Analyst hours that should have been offered, or the cost of those services. The time period would not include extended school year services as Student failed to prove a need for extended school year instruction during the summer of 2024.

Santa Rosa Academy's instructional calendars for the 2023-2024 and 2024-2025 school years establish that there were three school days left in the 2023-2024 school year after the May 28, 2024 IEP team meeting. The last day of the 2023-2024 school year was May 31, 2024. The first day of school during the 2024-2025 school year was August 6, 2024. There were 32 regular school days and nine early release days between August 6, 2024, and October 3, 2024, inclusive. As stated previously, information

regarding the 2024-2025 Santa Rosa Academy Instructional Calendar was taken from the instructional calendar posted on Santa Rosa Academy's website. Official notice is taken of the posted 2024-2025 Instructional Calendar.

Given the lack of evidence regarding the frequency and duration of services required; or the number of behavior aide and supervision hours Student required from May 28, 2024, through October 3, 2024, as an equitable compensatory remedy for the failure to provide needed behavior aide services, Student is awarded up to \$12,250 for behavior intervention services. This is the equivalent of 100 hours of behavior aide services at \$100 per hour, for a total of \$10,000; and 15 hours of services by a Board Certified Behavior Analyst, at \$150 per hour, totaling \$2,250.

Behavior services must be provided by properly trained and licensed behavior technicians and Board Certified Behavior Analysts or other qualified behavior professionals of Parents' choice. Parent may access these funds on either a reimbursement or direct pay model at Parent's choice, so long as the chosen organization is willing to contract with Santa Rosa Academy. If reimbursement is chosen, Parents shall be reimbursed for behavior services within 30 days of submission of proof of payment and proof of attendance at the appointments. If direct payment is chosen, Santa Rosa Academy shall contact, and offer to contract with the behavior services provider of Parents' choice, within 20 school days of the date of Parents' written notice of the name of their chosen provider to the current Director of Educational Programs and Student Services. Santa Rosa Academy shall notify Parents within 10 school days of receipt of any notification that a selected service provider has refused to sign the charter school's contract, and give Parents the option to use the provider on a reimbursement basis.

These funds may be used for individual or group behavior instruction. Parents may choose to use the fund for behavior intervention services at their discretion, including one-to-one behavior aide support during school instructional hours, during academic tutoring or homework, or during extracurricular or other recreational activities. The services must involve assisting Student to engage in and complete non-preferred tasks; social initiation skills with peers and adults; tolerating certain demands and verbal praise; and self-advocacy skills. The funds may also be used for camps or other organized activities offered by behavior professionals that provide behavior services to help Student learn to work in a group setting, manage schedules and transitions, cope with requirements that he engage in non-preferred tasks, and interact with peers and adults. Such camps or other organized activities may be offered during non-school hours, including after school, weekends, or during school holidays, including over the summer.

As this is a compensatory remedy, these services must be provided in addition to any similar services, if similar services are offered in Student's IEP to meet Student's current needs.

These funds will be available to Student through June 30, 2026.

ORDER

1. Santa Rosa Academy shall provide one hour per week of social skills training for Student for 11 [eleven] weeks. This training can be provided in one group session per week, or as one 30-minute group and one 30-minute individual session per week, as determined by the Santa Rosa Academy speech therapist or school psychologist Santa Rosa Academy

designates to be responsible for implementing this order. The social skills training must begin within 30 days of the date of this order.

2. Santa Rosa Academy shall fund 11 [eleven] hours of educationally related counseling services. These services will be provided by a licensed mental health care provider of Parent's choice, who charges no more than \$200 per hour. The counseling will address school-based anxiety, or other social emotional interference with Student's ability to access his education.
3. Santa Rosa Academy shall fund up to \$12,250 for behavior intervention services, provided by licensed behavior technicians and Board Certified Behavior Analysts, or other qualified behavior professionals of Parents' choice. Parents may choose to use the fund for behavior intervention services at their discretion, including one-to-one aide support during instructional hours, during academic tutoring or homework, or during extracurricular or other recreational activities.
4. These funds may be used for services related to Student's compliance with non-preferred tasks; social initiation skills with peers and adults; tolerating non-preferred demands and verbal praise; and self-advocacy skills.
5. The funds may also be used for camps or other organized activities offered by behavior professionals that would address the specified behavior needs stated in paragraph four of this order.
6. For purposes of accessing the ordered mental health and behavior services, Parents shall have the option of reimbursement or of selecting a mental health services or behavior services provider willing to contract with Santa Rosa Academy for direct payment.

7. If reimbursement is chosen, Parents shall be reimbursed for services within 30 days of submission of proof of payment and proof of attendance at the appointments. If direct payment is chosen, Santa Rosa Academy shall offer to contract with the mental health care provider(s) or behavior services provider(s) of Parents' choice within 20 school days of the date of Parents' written notice of the name of their chosen providers are sent to the current Director of Educational Programs and Student Services.
8. Santa Rosa Academy shall notify Parents within 10 school days of receipt of any notification that a selected service provider has refused to sign the charter school's contract and give Parents the option to use the provider on a reimbursement basis, or select a different service provider.
9. All services and funds ordered are to be used by June 30, 2026, or are forfeited.
10. As this is a compensatory remedy, these services must be provided in addition to any similar services, if similar services are offered in Student's IEP to meet Student's current needs.
11. Student did not prevail on any other issues. Therefore, all other requested remedies 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.

Additionally, issues regarding compliance with a previously agreed mediated settlement may be brought before the Compliance Office of the California Department of Education. (Cal. Code Regs., tit. 5, § 4650(a)(viii)(B).

PENELOPE S. PAHL

Administrative Law Judge

Office of Administrative Hearings