

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

v.

SEBASTOPOL INDEPENDENT CHARTER.

CASE NO. 2025050051

DECISION

OCTOBER 8, 2025

On April 29, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Sebastopol Independent Charter, called Sebastopol. OAH continued the matter on June 16, 2025. Administrative Law Judge Alexa Hohensee heard this matter by videoconference on August 5, 7, 14, 15, 18, 19, 20, 21, 22 and 29, 2025.

Attorneys Evan Goldsen and Eric Verwest represented Student. Parents attended all hearing days on Student's behalf. Attorney Jennifer Nix represented Sebastopol. Chris Topham, Sebastopol's Executive Director, attended all hearing days on Sebastopol's behalf.

At the parties' request, the matter was continued to September 22, 2025, for written closing briefs. The record was closed, and the matter was submitted on September 22, 2025.

ISSUES

The issues at the due process hearing, as clarified at the prehearing conference and on the first day of hearing, are stated below. A free appropriate public education is called a FAPE. An individualized education program is called an IEP.

There was a typographical error at Issue 6 in the prehearing conference order that incorrectly referred to the June 28, 2025 IEP as the June 18, 2025 IEP. That error was corrected on the first day of hearing.

1. Did Sebastopol deny Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?

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2. Did Sebastopol deny Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?
3. Did Sebastopol deny Student a FAPE in the December 7, 2023 IEP by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?

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4. Did Sebastopol deny Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?
5. Did Sebastopol deny Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?
6. Did Sebastopol deny Student a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?

- c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?
- 7. Did Sebastopol deny Student a FAPE in the October 1, 2024 IEP by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?
- 8. Did Sebastopol deny Student a FAPE in the December 9, 2024 IEP by failing to offer:
 - a. autism eligibility?
 - b. goals or accommodations relating to dyslexia and dysgraphia?
 - c. individualized multisensory reading instruction or dyslexia and dysgraphia services?
 - d. an appropriate placement to address Student's dyslexia and dysgraphia?

9. Did Sebastopol deny Student a FAPE from April 29, 2023, through April 29, 2025, by significantly impeding Parents' ability to participate in the IEP decisionmaking process by failing to meaningfully consider:
 - a. Parents' input regarding need for autism support?
 - b. Parents' concern that Student did not make meaningful progress in the areas of academics?
 - c. the findings and recommendations of Parents' educational evaluation assessor at the October 1, 2024 IEP team meeting?

JURISDICTION

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

- all children with disabilities have available to them a 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 had the burden of proof. 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 13 years old and attending eighth grade at Sebastopol at the time of hearing. Sebastopol was an independent charter school and a school of choice, responsible for providing Student a FAPE at all relevant times. Sebastopol was not Student's school of residence. Parents lived in different homes, and both changed addresses during the period at issue. Parents shared custody, and Student and his sibling went back and forth between homes during the week, on different days and times as changed and agreed to by Parents.

Student was eligible for special education and related services under the category of specific learning disability due to neurocognitive processing deficits that impacted his ability to read and write. Student was also eligible under the category of other health impairment due to a diagnosis of attention deficit hyperactivity disorder, or ADHD, that adversely impacted his attention to task and executive functioning.

ISSUE 1a: DID SEBASTOPOL DENY STUDENT A FAPE IN THE MAY 2 AND MAY 15, 2023 IEPS BY FAILING TO OFFER AUTISM ELIGIBILITY?

Student contends that he was denied a FAPE in the May 2 and May 15, 2023 IEPs because they did not include autism as one of Student's special education eligibility categories. Student argues Sebastopol's assessment results reflected Student had communication deficits, repetitive behaviors, and sensory sensitivities consistent with autism, and autism should have been listed as an additional eligibility category.

Sebastopol contends Student was not eligible for special education under the category of autism because he did not exhibit characteristics of autism adversely affecting his performance in the school setting. It argues Student was sociable, participated in class discussions, and performed at grade level with accommodations for reading and writing. It further argued Student did not display communication deficits, repetitive behaviors, or sensory sensitivities.

A FAPE means special education and related services that are available to an eligible child and meet 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 individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick*

Hudson Central School Dist. v. Rowley (1982) 458 U.S. 176, 201-204 (*Rowley*); *Endrew F. v. Douglas County School Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000] (*Endrew*).)

As long as a child remains eligible for special education and related services, the IDEA does not require the child to be placed in any particular disability category. The IDEA states:

Nothing in [the IDEA] requires that children be classified by their disability so long as each child who has a disability listed in [the IDEA] and who, by reason of that disability, needs special education and related services is regarded as a child with a disability.

(20 U.S.C. § 1412(a)(3)(B); 34 C.F.R. § 300.111(d); see also Ed. Code, sec. 56301, subd. (a).)

U.S. Department of Education guidance has long been that a child's entitlement is not to a specific disability classification or label, but to a FAPE. (*Letter to Fazio* (U.S. Dept. of Educ., Office of Special Education Programs (OSEP) Apr. 26, 1994) 21 IDELR 572 (*Fazio*).)

Compelling a selection of one particular category seems contrary to the school district's child find duty. (*E.M. ex rel. E.M. v. Pajaro Valley Unified School Dist.* (9th Cir. 2014) 758 F.3d 1162, 1174 (*Pajaro Valley*).)

STUDENT'S ENROLLMENT AT SEBASTOPOL

Prior to entering Sebastopol, Student attended a Spanish language immersion program in a school district that found Student eligible for special education in 2020. On November 2, 2022, Student entered Sebastopol with an existing IEP dated January 14,

2022, from the prior school district, stating Student's sole eligibility category as specific learning disability. That IEP also noted Student had an ADHD diagnosis and attention problems that interfered with his ability to access the curriculum.

Generally, a student must be assessed no less than every three years, and the student's educational program reviewed not less than once per year. (20 U.S.C. §§ 1414(a)(2)(B), 1414(d)(4)(B)(i); Ed. Code, § 56381, subd. (a)(2).) Student's three-year assessment and program review were due in December 2022, one month after enrollment in Sebastopol.

Sebastopol convened an IEP team meeting on December 7, 2022, to review how Student was transitioning to his new school. The IEP team agreed to retain terms of the January 14, 2022 IEP, which included three literacy goals, placement in a general education classroom, and specialized academic instruction of 60 minutes per day, four days per week in a separate classroom. At Parents' request, the IEP team reduced Student's daily specialized education sessions from 60 minutes to 45 minutes, because Student did not like missing time in his general education classroom.

Because Student left his prior school district at the end of October 2022, it did not complete assessments for Student's three-year program review. In addition, Parents planned a vacation for Student that extended beyond Sebastopol's 2022-2023 winter break, so he was unavailable for assessment in December 2022 and early January 2023. The December 7, 2022 IEP team agreed Sebastopol would conduct its own assessments and reconvene the IEP team meeting to review those assessments the following semester when Student returned.

Parents consented to the December 7, 2022 IEP on January 13, 2023.

MULTIPLE MEETINGS TO COMPLETE THE THREE-YEAR REVIEW

The three-year review was completed over a series of IEP team meetings on February 15, 2023, March 22, 2023, April 5, 2023, and May 2, 2023. Sebastopol did not make a complete offer of special education and related services until the May 2, 2023 IEP, the first IEP at issue in this proceeding.

The May 2, 2023 IEP was written as an amendment to the December 7, 2022 IEP, but was a final offer of FAPE, and will be called the May 2, 2023 IEP.

During the series of IEP team meetings between December 7, 2022, and May 2, 2023, Parents had many questions about each and every step of the IEP development process and requested numerous detailed changes to the draft IEP being developed by the IEP team. Each IEP team meeting lasted one to two hours as Sebastopol team members worked collaboratively with Parents to develop Student's educational program.

Multiple meetings were in keeping with the Ninth Circuit's emphasis on parental participation as one of the most important safeguards in the IDEA. (*Amanda J. ex rel. Annette J. v. Clark County School Dist.* (9th Cir. 2001) 267 F.3d 877, 892 (*Amanda J.*) An IEP team must consider the concerns of the parent for enhancing the student's education and information on the student's needs provided to, or by, the parent. (20 U.S.C. § 1414(d)(3)A) & (d)(4)(A)(ii); 34 C.F.R. § 300.324(a)(1)(ii) & (b)(1)(ii)(C); Ed. Code, § 56341.1, subds. (a)(2), (d)(3) & (f).)

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The U.S. Department of Education has long advised school districts that parents are entitled to bring their questions, concerns, and recommendations to an IEP team meeting as part of a full discussion of a child's needs and the services to meet those needs before the IEP is finalized. (*Assistance to States for the Education of Children Disabilities* (U.S. Dept. of Education, Mar. 12, 1999) 64 Fed. Reg. 12478-12479.) A school district cannot independently develop an IEP without meaningful participation by the parent. (*W.G., et al. v. Board of Trustees of Target Range School Dist.* (9th Cir. 1992) 960 F.2d 1479, 1484, superseded in part by statute on other grounds (*Target Range*).)

Parents had questions, concerns, and recommendations that were often not resolved during the time scheduled for an IEP team meeting. Parents were entitled to a full discussion of their questions and concerns. Some IEPs took several meetings to complete. For this reason, the ALJ determined that a number of the IEPs at issue were not final offers of FAPE, as discussed at Issues 2, 3, 4, and 5 below.

BEGINNING OF THE 2022-2023 SCHOOL YEAR

Sebastopol was a small public charter school with 300 students from kindergarten through eighth grade. It was a Waldorf school that complied with state standards but presented material at different times than typical school programs and used Waldorf methodology.

Waldorf schools used multisensory teaching methods and taught many subjects in blocks. For example, when studying a period in history, the students might spend an entire one-month block of lessons on that period, singing period-appropriate songs, learning period-appropriate games or dances, and making period-appropriate foods to reinforce their understanding of that period of time and its events. Students at every

grade level played a musical instrument and took handwork classes, such as crochet and knitting in elementary school and woodworking in middle school. Each student created a book of what they learned each year. The books became essay-based by middle school. Students worked on an essay for days or weeks before the final version of that essay was placed in their book.

As a Waldorf school, Sebastopol kept its students with the same teacher for multiple years. The Sebastopol teachers who testified were all knowledgeable and dynamic communicators.

In November 2022, Student entered Lynne Struye's general education fifth-grade classroom of approximately 30 students. Many of Struye's students had been with her for several years. Student was initially shy but soon thrived socially. Student got along well with his classmates, spent time with friends on the playground during lunch and recess, and was well-liked by both peers and adults. Student went to different classrooms for math, handwork, music, and specialized academic instruction. Specialized academic instruction was provided in the Learning Center on campus.

Students in the Learning Center had IEPs and received specialized academic instruction on their academic annual goals. During the 2022-2023 school year, the Learning Center staff included a literacy specialist and Danielle Ing, a special education teacher credentialed to teach students with mild to moderate disabilities. Student went to the Learning Center for 45 minutes per day, four days per week, and worked on academic goals in the December 7, 2022 IEP. Student's goals, discussed at Issue 1b, targeted literacy skills to address Student's reading and writing deficits.

THE FEBRUARY 2023 PSYCHOEDUCATIONAL ASSESSMENT

Student's three-year comprehensive assessment was documented in a report dated February 13, 2023. It was conducted in December 2022 and January 2023 by highly qualified school psychologist Jeffrey Lough. Lough possessed a master's degree in school counseling with a focus on school psychology and was a credentialed school psychologist. Lough had been a school psychologist and counselor for over 15 years, was a diplomate of the American Board of School Neuropsychology, and actively participated in regular continuing education, including autism diagnosis. Lough was a school psychologist for Sebastopol for three years through the 2023-2024 school year. He was regularly in Student's fifth-grade classroom, where he taught social emotional learning, and helped Student integrate smoothly into Sebastopol. At hearing, Lough had a very open and professional demeanor, and gave clear, complete, and informative answers to all questions. His testimony was very persuasive, and his opinions were given significant weight.

Credentialed special education teacher Danielle Ing gathered information on Student's academic performance. Ing obtained a special education credential in 2019 to teach students with mild to moderate disabilities. She had been a special education teacher for six years at the time of hearing, and taught in the Learning Center at Sebastopol through the 2023-2024 school year. As part of her special education credentialing program, she was trained and familiar with a variety of evidence-based curriculum and teaching methods to address the learning needs of children with disabilities in reading and writing, including the Orton-Gillingham multi-sensory approach. Student's levels of academic achievement are discussed at Issue 1b, but Ing was also one of the teachers who completed behavior and autism rating scales for

Lough's assessment. Ing had a professional and helpful demeanor at hearing, and she was very knowledgeable and articulate. Her answers were thorough, enlightening, and clearly and logically explained. Her opinions regarding Student's educational needs, appropriate reading and writing goals and instruction to address those needs, best practices to implement reading and writing instruction, and Student's progress on annual goals worked on in the Learning Center, were persuasive and convincing, and given significant weight.

Lough observed Student in Struye's general education classroom, where Student

- participated regularly by raising his hand,
- making spontaneous comments,
- asking relevant questions,
- starting his work, and
- having necessary materials at hand.

During recess, Lough observed Student with one or two classmates at all times. When Lough could overhear what was said, Student initiated peer conversations with age-appropriate content, responded appropriately, and even joked with one peer. Over several playground observations, Student used figurative language like "Give him a taste of his own medicine," talked casually and laughed with peers, and played basketball with multiple classmates. During testing, Student freely discussed his recent vacation, although he did not ask Lough to elaborate when Lough mentioned he had been to the same destination. Student had good eye contact during conversation, but was fidgety in his seat during testing.

Lough used rating scales to measure Student's social emotional functioning and behavior. Mother, Father, and general education teacher Struye completed behavior assessment scales. Struye rated Student as typically functioning in all areas. Father rated Student elevated in levels of hyperactivity, inattention, and anxiety, while Mother rated Student clinically elevated in hyperactivity, inattention, and adaptability. Student rated himself as having a positive attitude towards school and peers, but with elevated levels of attention, hyperactivity, and feelings of inadequacy. Student's self-report placed him in the typical behavior range, except for several phobias and his belief that some people might find him strange. Student rated his emotional functioning, impulse control, and anger management as typical, but with elevated worries about his attention and use of time.

On a self-report for anxiety, Student rated himself typical in all areas except separation anxiety from Parents, and phobias on bad weather, the dark, and bugs. Physically, Student rated himself as jumpy and jittery.

On autism rating scales, Mother reported Student had difficulty understanding others' perspectives, was easily upset at home, and wanted social connections. Student had been recently diagnosed with autism through his medical insurance, and Lough noted in that medical evaluation Parent had reported Student was typical at school, with minimal and nonproblematic characteristics of autism in the school setting.

Social emotional testing showed Student had some rigid thinking, but no social emotional challenges beyond mild anxiety around schoolwork. None of Student's teachers reported language or communication issues, and Lough noted Student scored in the average range in pragmatic, or social, language skills in a concurrent Sebastopol speech and language assessment.

Lough concluded in his February 2023 multidisciplinary report that Student did not meet the criteria for autism eligibility because Student did not demonstrate impaired social interaction in pragmatic language and reciprocal social interaction to a significant degree at school. Student did not exhibit engagement in repetitive activities or stereotypical movements, resistance to environmental change or change in daily routines, or unusual responses to sensory experiences.

THE MAY 2, 2023 IEP

The May 2, 2023 IEP identified Student as eligible for special education under the category of specific learning disability due to his cognitive processing deficits affecting reading and writing, and under the category of other health impairment due to his attention deficits. The IEP also noted Student had a medical diagnosis of autism spectrum disorder.

STUDENT NOT ENTITLED TO A PARTICULAR ELIGIBILITY CATEGORY

Student cites no authority in his closing argument requiring an IEP to identify more than one category of eligibility for special education. As explained by the U.S. Department of Education in *Fazio*, and by the Ninth Circuit in *Pajaro Valley*, Student is not entitled under the IDEA to a specific eligibility category.

STUDENT NOT ELIGIBLE UNDER CATEGORY OF AUTISM

To be eligible for special education, a student must have a qualifying disability, and, because of that disability need special education. (20 U.S.C. § 1401(3)(A); 34 C.F.R. § 300.8(a)(1) & (b); Ed. Code, § 56026, subds. (a) & (b).) A child with a disability means a child evaluated in accordance with sections 300.304 through 300.311 of title 34 of the

Code of Federal Regulations as having one of thirteen eligibility categories disability, including autism, and who by reason of that disability needs special education and related services. (34 C.F.R. § 300.8(a)(1); see also Cal. Code Regs., tit. 5, § 3030.)

In California, autism, for special education eligibility, is defined as a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(1); see also, 34 C.F.R. § 300.8(c)(1)(i).)

The evidence established that in May 2023, Student did not exhibit characteristics of autism in the school setting that adversely affected his educational performance and therefore, Student did not meet the eligibility criteria of autism.

Student was a social, communicative, and motivated learner who, in May 2023, thrived under Sebastopol's multi-modal educational approach and with the supports in the December 7, 2022 IEP. There was no evidence that Student's recently diagnosed autism affected his verbal and nonverbal communication or social interaction in the school setting. Student did not engage in repetitive activities or stereotypical movements in the classroom or on the playground. Student blended in seamlessly to the environmental change of a new school and adapted well to Sebastopol's block system. Mother reported sensory seeking with Student rubbing his hoodie and favoring

certain fabrics, but there were no reports of unusual sensory responses at school. To the extent Student had characteristics of autism, they neither presented in the school setting or adversely affected his educational performance.

At hearing, every witness who worked with Student at Sebastopol, whether in the 2022-2023, 2023-2024, or 2024-2025 school years, described Student as being social and well-liked. Student's general education teachers consistently testified that Student enthusiastically contributed to class discussions, shared meaningful insights into the subject matter, and worked well in groups. No one who had interacted with Student at Sebastopol perceived him as being any more awkward than a typical student his age or having any social or communication deficits.

Witnesses who observed Student in school, in different classes, circumstances, and school years, consistently and credibly testified they did not see Student display characteristics of autism such as poor communication skills, difficulty interacting with or taking the perspective of others, or having unusual behaviors or sensory needs. Student did not engage in repetitive activities and stereotyped movements, and although he complained in sixth grade when the classroom was rearranged, did not otherwise demonstrate resistance to environmental change or change in daily routine. Ing emailed Lough at the start of the three-year assessment that Student might have autism due to poor eye contact and little conversation. However, Ing testified credibly that she did not know Student well at the time, and once Student was comfortable in the Learning Center and interacted with her and the other students freely, she no longer had reason to believe he had autism.

Struye, who had been a teacher for 19 years as of May 2023, described Student as a personable, sweet, and attentive student who made friends quickly and was welcome in any classroom group. She testified convincingly that she had worked with students with autism in the past and saw no characteristics of autism in Student. Student transitioned into Sebastopol well and thrived intellectually and socially in her classroom and did not have the verbal and nonverbal communication and socialization deficits she observed in other children with autism. Sophia Wiebe, who was an assistant in the Learning Center working on her educational specialist credential during the 2022-2023 school year, described Student as an avid learner with good and reciprocal conversational skills.

In December 2022, Student had received a diagnosis of autism spectrum disorder through his medical insurance, based on a psychologist's videoconference interview of Student and Mother, online testing, and rating scales completed by Mother. That psychologist did not testify, did not observe Student in the school setting, and did not speak with Student's teachers at Sebastopol. She did not review school records other than a psychoeducational assessment by Student's prior school district from February 2020 finding Student eligible for special education under the category of specific learning disability. This autism diagnosis did not automatically establish that the characteristics of autism adversely affected Student's educational performance. A student may have a qualifying disability and still not be found eligible for special education, let alone a specific category. (See *Hood v. Encinitas Union School Dist.* (9th Cir. 2007) 486 F.3d 1099, 1107-1108, 1110.)

The totality of the evidence did not demonstrate Student could not take the perspective of others, was socially inept and without friends, or a poor communicator. Witnesses who no longer worked for Sebastopol and had no incentive to paint Student in a particular light described him as a gregarious and involved student. Even Student's due process complaint begins by describing Student as an enthusiastic and social student who is known for his kindness, empathy, being supportive, and who enjoys spending time with friends. Isolated instances of poor eye contact, lack of interest in an adult's shared experience, or fidgeting in his seat did not establish that Student exhibited characteristics of autism that adversely affected his educational performance.

Mother believed Student had autism because he acted out when he got home and had meltdowns when asked to complete homework. She also thought his interactions with other children were superficial, as he did not have close friendships like her own. Mother's testimony was somewhat contradictory, as she insisted Student did not have any friends, but also testified that the parents of Student's friends had recommended Sebastopol. The February 15, 2023 IEP also contemporaneously documented that Mother told the IEP team Student was trying to get his friends to attend Sebastopol. Mother's inconsistent statements adversely affected her credibility.

Father also felt Student had no friends and was discouraged that Student would not invite kids Student met during basketball games at the park home with him. Mother was particularly upset that Student's school friends did not visit him at home. There are many reasons Student may have chosen not to bring friends into either of his Parent's homes. These observations did not establish that Student could not initiate or maintain friendships, or had other social deficits as a result of autism that adversely affected his educational performance.

Student's expert psychologist Julia VanderVennet, Ed.D., who assessed Student in seventh grade and whose report is discussed at Issue 7, suggested that Student may have been "masking" his social deficits and having invisible emotional reactions at school. Dr. VanderVennet opined Sebastopol should have put autism supports in place even if there were no signs of pragmatic language or social skills deficits, rather than waiting for such deficits to appear. Her opinion was speculative and not the standard imposed by the IDEA for finding eligibility. Sebastopol was not required to find Student eligible for special education based on autism, or to provide supports needed by students with autism in general, without evidence that Student had autism characteristics that adversely affected his educational performance. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(1).)

It is noteworthy that the evidence of pragmatic language deficits and unusual responses to sensory experiences Student relied on were based on Parent report and unsupported by expert assessment. Pragmatic language assessments are within the realm of speech and language, and sensory sensitivities are in the realm of occupational therapy. Admitted documents repeatedly referenced speech and language assessments and occupational therapy assessments that found Student had no social language deficits or unusual responses to sensory experiences in the school setting. These reports included speech and language and occupational therapy assessments by Sebastopol in February 2023, and a May 2023 occupational therapy assessment conducted by Redwood Pediatric Therapy Associates. The following year, Sebastopol agreed to fund independent speech and language and occupational therapy assessments, but no such independent assessments were offered into evidence at the August 2025 hearing.

The only speech and language assessment admitted into evidence was a December 2019 speech and language assessment that found Student's articulation skills below average, which no longer applied in May 2023, and Student's receptive and expressive language skills within normal limits.

If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust. (See Evid. Code, § 412; see also Judicial Council of California Civil Jury Instructions (2025 edition), CACI No. 203; *Vallbona v. Springer* (1996) 43 Cal.App.4th 1525, 1537 [the trier of fact may reasonably disbelieve a party's self-serving assertions].) Parents' statements that Student lacked communication and social skills, and had sensory seeking behaviors, were uncorroborated by professional assessments, self-serving, and not credible.

In addition, it can reasonably be inferred from Student's failure to produce assessments of his alleged significant social language deficits and sensory sensitivities due to autism that the results of such assessments would not have shown that Student had significant pragmatic language deficits or unusual sensory seeking and avoidance behaviors. (See *Williamson v. Superior Court of Los Angeles County* (1978) 21 Cal.3d 829, 836, fn. 2 [If a party does not produce evidence that naturally would have been produced, he must take the risk that the trier of fact will infer, and properly so, that the evidence, had it been produced, would have been adverse].)

Student's evidence that he exhibited characteristics of autism that adversely affected educational performance in May 2023 was untrustworthy and speculative. It was insufficient to prove that Student's autism adversely affect his educational performance, particularly over substantial evidence that it did not.

MAY 15, 2023 IEP AMENDMENT

On May 15, 2023, special education teacher Ing documented in an IEP amendment the dates and services Sebastopol offered Student for the upcoming extended school year services during summer break. This was actually a clarification of the FAPE offer in the May 2, 2023 IEP. An educational agency and the parent may agree to amend an IEP without convening an IEP team meeting and instead develop a written document to amend or modify the child's current IEP. (20 U.S.C. § 1414(d)(3)(D) & (F); 34 C.F.R. § 300.324(a)(4)(i) & (a)(6); Ed. Code, § 56380.1, subds. (a) & (b).)

The May 15, 2023 IEP clarified the dates and services for extended school year 2023 but did not otherwise make any changes to the May 2, 2023 IEP eligibility findings or offer of FAPE. No evidence was presented that on May 15, 2023, Sebastopol had new or additional information that Student's educational performance was adversely affected by his autism and that autism should have been added as an eligibility category.

Student failed to prove that Sebastopol denied Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer autism eligibility. Sebastopol was not required to find Student eligible for special education and related services under a third eligibility category of autism.

Student did not prove that he was eligible under the category of autism.

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ISSUE 1b: DID SEBASTOPOL DENY STUDENT A FAPE IN THE MAY 2 AND MAY 15, 2023 IEPS BY FAILING TO OFFER GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE by failing to offer appropriate goals and accommodations for Student's dyslexia and dysgraphia in the May 2 and May 15, 2023 IEPs. Student argues his academic goals were not ambitious enough to remediate Student's reading fluency deficits, and the goals and accommodations did not sufficiently address Student's spelling, reading and writing challenges, or his difficulties with handwriting and written organization.

Sebastopol contends the goals addressed Student's identified needs in all areas of literacy, as did the accommodations offered in the May 2023 IEPs.

Annual goals in an IEP are designed to enable the student to be involved, and make progress, in the general education curriculum. (20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320; Ed. Code, § 56345, subd. (a)(1).) For each area in which a special education student has an identified need resulting from their disability, the IEP team must develop measurable annual goals that are based upon the student's present levels of academic achievement and functional performance, and which the student has a reasonable chance of attaining within a year. (*Ibid.*) The purpose of annual goals is to permit the IEP team to determine whether the student is making progress in an area of need. (Ed. Code, § 56345, subd. (a).)

The IEP must describe how the student's progress toward meeting the annual goals will be measured. (20 U.S.C. § 1414(d)(1)(A)(i)(III), see also 34 C.F.R. § 300.320(a)(3).) However, there is no specific form of measurement required by statute or caselaw.

(*Capistrano Unified School Dist. V. S.W.* (9th Cir. 2021) 21 F.4th 1125, 1134, cert. denied sub nom. *S.B. v. Capistrano Unified School Dist.* (2022) 143 S.Ct. 98; (*Capistrano*).) Goal measurement can be based on the teacher's subjective observations. (*Ibid.*, citing *R.P. ex rel. C.P. v. Prescott Unified School Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122 (*C.P.*).) Nor does the IDEA require a district to adopt the specific form of data collection preferred by the parent. (*Id.*, at p. 1135.)

The IDEA requires goals to target a student's needs but does not require an IEP to contain every goal from which a student might benefit. (*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. (Fed. Reg., Appendix A, Part 300 – *Assistance to States for the Education of Children with Disabilities* (1999) [discussing language also contained in the 2004 reauthorization of the IDEA at 20 U.S.C. § 1414(d)(1)(A)(i)(II)].)

The May 2, 2023 IEP was developed over a series of IEP team meetings beginning December 7, 2022. Student was working on goals carried forward from the January 14, 2022 IEP, and the IEP team used Student's progress on goals, Sebastopol's assessments of Student's academic achievement and functional performance, baseline skills reports, and input from Student's teachers and Parents to identify Student's areas of need and develop new annual goals.

As of May 2, 2023, Student met his writing goal of transferring quotes from a text to support an essay. Student made progress on, but did not meet, his executive functioning goal of keeping his classroom materials organized and in their proper place.

Student did not meet his spelling goal to correctly spell 10 frequently used words, both because Sebastopol did not know which words Student had been working on at the prior district, and Sebastopol had been working on the goal for less than a school year.

Struye reported to the May 2, 2023 IEP team that Student was earning A's and B's in his classes, and Mother told the April 5, 2023 IEP team that Student loved Struye's class and his confidence was increasing. With daily specialized academic instruction and accommodations for his disabilities, such as not grading on spelling and using speech-to-text, Student was accessing grade-level instruction and producing grade-level work.

The February 2023 multidisciplinary report found Student's overall cognitive ability in the average range, but Student's poor abstract visual memory meant he had difficulty holding information in his mind long enough to recall it. He also had slow phonological processing, which is how the brain processes the sound structures of language. Phonological processing is highly correlated with the ability to spell and to read fluently. Student's slow phonological processing resulted in difficulty spelling and in how fast and well Student could read. Student's difficulty in reading was compounded by his deficits in rapid retrieval of visual information. A slower reading rate impacted Student's comprehension and made reading laborious for him.

Student's neurocognitive differences also impacted his ability to write. Physically, Student had good visual motor skills, but his handwriting became less legible when he struggled to spell, and he complained of hand pain during handwriting.

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Reading and writing are different skills. A reader must decode words already on the page, typically by sounding them out phonetically or by memorizing sight words. A writer must use the more difficult skill of encoding, or deciding which words to use and how they are spelled. For example, to write the word "phone," the writer must determine whether the word begins with an "f" or the blend "ph," which make the same sound. In addition to spelling, writing involves composing complete sentences with grammar, capitalization, punctuation within a sentence, punctuation separating sentences, and many other rules of writing. Student's memory and processing differences made both of these tasks challenging, but combined with attention and executive functioning deficits from Student's ADHD, spelling and writing were particularly difficult tasks.

Sebastopol's psychoeducational assessment report concluded Student had average cognitive abilities, but had deficits that impacted reading and writing in processing speed, working memory, visual memory, and phonological processing. Student continued to need remediation in all areas of literacy development, with accommodations for hyperactivity, inattention, and slight levels of anxiety.

Ing assessed Student's academic achievement in January 2023. Student scored in the average range in reading, above average in math, but in the low average to below average range in written expression. On a phonics screener used regularly in the Learning Center to measure progress, Student was sounding out many letter combinations, but still missed some

- consonant sounds,
- consonant-vowel-consonant words, called CVC, words,
- consonant blends, variant vowels,

- low frequency spelling words, and
- multisyllabic words.

Student had particular difficulty with digraphs and trigraphs, or combinations of letters that make a single new sound, such as "ch" or "igh."

In other present levels of performance in May 2023, Student was reading aloud at the beginning fifth-grade level, at a rate of 57 words per minute. His comprehension was very high, and he used effective strategies to find answers to questions in a text. In writing, Student preferred to dictate rather than write by hand, and his writing became less legible when he wrote more than one paragraph. Struye's class was working on writing paragraphs, and although Student's grammar was very good, he had not mastered correct syntax or paragraph organization. Student kept up with fifth-grade math with minimal support or reteaching.

According to the February 15, 2023 IEP meeting notes, Sebastopol's speech-language pathologist and assessor reported that Student performed in the typical range for his age with regard to pragmatic inferencing and non-literal language. Sebastopol's occupational therapist reported Student had difficulty with penmanship and some sensation seeking habits that did not impact him in the classroom. The occupational therapist recommended a typing goal, as typing skills would be important to Student as he advanced in grades, but Parents rejected that as they wanted Student to improve his penmanship.

At the March 22, 2023 IEP team meeting, the speech-language pathologist recommended accommodations, including scaffolded verbal instructions and a single folder for assignments to take home. The occupational therapist again proposed a typing goal, commenting that if Student was not motivated to handwrite, it did not

make sense to focus on that, as Student could take notes by typing on his laptop. However, Parents wanted to focus on handwriting and said Student preferred speech-to-text over typing anyway.

The May 2, 2023 IEP team found Student eligible for special education under the category of other health impairment due to ADHD symptoms that adversely affected his educational performance. (See Cal. Code Regs., tit. 5, § 3030, subd. (b)(9).) The IEP team also found Student eligible under the category of specific learning disability due to disorders in attention, memory, and visual processing involved in understanding and using language that manifested in the imperfect ability to listen, think, read, write, and spell. (See *id.*, subd. (b)(1).)

Sebastopol did not dispute that Student had dyslexia and dysgraphia. However, in discussing whether the May 2, 2023 IEP goals or accommodations related to Student's dyslexia and dysgraphia, it is worth noting that dyslexia and dysgraphia are not specific clinical diagnoses or IDEA categories.

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, or DSM-5, characterizes a person meeting certain criteria, including difficulties in such areas as reading and writing with skills substantially below what is expected for their age, as having a specific learning disorder. Specific learning disorders may include impairment in reading, commonly called dyslexia, and impairment in written expression, commonly called dysgraphia. Impairments in reading include difficulty with underlying skills, such as reading rate or fluency, decoding, and spelling. Impairment in written expression may include difficulties with grammar, punctuation, clarity of ideas, or

organization. Sebastopol was not required to write goals to expressly address dyslexia or dysgraphia, but to address Student's difficulties with the underlying skills that adversely impacted his educational performance.

Parents asked many questions about dyslexia, dysgraphia, spelling, visual memory, and working memory during the IEP team meetings to develop the May 2, 2023 IEP. Many accommodations were discussed. Special education teacher Ing told Parents that Sebastopol could not improve Student's memory and cognitive processing but could help Student find accommodations and strategies that would work for him through adulthood to read and write effectively despite his disabilities. Student's areas of need were identified in the May 2, 2023 IEP as reading fluency and phonics, writing organization, sight word spelling, and fine motor in writing and sensory.

Ing initially proposed five annual goals at the April 5, 2023 IEP team meeting, in

- sight word spelling,
- consonant and vowel sounds,
- reading phonics patterns,
- phonics spelling, and
- paragraph writing.

Parents requested changes and additional goals, and Ing reworked goals and took new baselines, and the IEP team ultimately agreed to the eight academic goals in the May 2, 2023 IEP.

MAY 2, 2023 IEP GOALS WERE APPROPRIATE FOR READING AND WRITING

Sebastopol developed eight academic goals in the May 2, 2023 IEP. The first goal addressed Student's spelling of irregularly spelled sight words. Student could spell 25 of 41 kindergarten sight words, 26 of 41 first-grade sight words, and 14 of 46 third-grade sight words. But, he could only spell 5 of 23 irregularly spelled first and second-grade sight words.

This goal required Student to spell a list of 20 identified irregularly spelled kindergarten, first grade, and second-grade sight words with 75 percent accuracy in two of three trials measured by teacher data. This goal addressed both Student's reading fluency and written expression. Ing explained persuasively at hearing that Student's spelling impacted his writing not just because words were misspelled, but because Student might have to pause to think of how to spell a word, interrupting his train of thought and making writing a laborious process.

The second goal addressed Student's decoding skills and phonics fundamentals. He could identify eight of 10 vowel sounds and 17 of 21 consonant sounds. The goal was for Student, given a visual prompt, to identify 10 of 10 vowel sounds and 21 of 21 consonant sounds with 100 percent accuracy in two of three trials as measured by teacher-charted records and assessments. Ing regularly assessed Student in the Learning Center with a phonics screener that measured Student's phonics knowledge and provided sound recognition practice. Ing explained that the ability to identify sounds was critical to Student's ability to decode reading words and spell words

phonetically in support of writing. Even when using accommodations such as speech-to-text and spell check, Student had to encode and spell words sufficiently to obtain spell checker predictions and to edit his written work.

The third goal addressed Student's reading through learning more advanced phonics fundamentals. In May 2023, Student could read CVC words with good accuracy, but his accuracy fell on words with letter blends, digraphs and trigraphs, and r-controlled words, which were words in which the letter "r" changed the vowel sound.

The phonics reading goal called for Student, given a list of 15 words containing one-syllable blends, 15 words with one-syllable digraphs, and 15 words containing one-syllable r-controlled words, to read those words with 90 percent accuracy in two of three consecutive trials as measured by teacher records and work samples. The goal was originally written to target only blends and digraphs at 85 percent accuracy, which was sufficient to show Student knew those skills well enough to implement them. However, at Parent's request, Sebastopol team members agreed to make the goal more ambitious by adding r-controlled words and a higher accuracy rate.

The fourth goal targeted phonics and spelling, which addressed Student's writing needs. Student could independently spell CVC words and blends with 90 percent accuracy, but his accuracy decreased on

- r-controlled words,
- variant vowel words,
- digraphs and trigraphs,

- long vowels words, and
- low frequency spelling words.

This goal required Student, given a list of regularly spelled single-syllable short vowel words with digraphs and r-controlled words, to independently spell each type of word with 85 percent accuracy in two of three trials as measured by teacher-made tests and student work samples. Unlike the goal that addressed irregularly spelled words, this goal addressed regularly spelled words. Ing believed it was important for Student to understand the phonics rules for spelling digraphs, and Parents wanted Student to focus on both digraphs and r-controlled words. Ing considered the goal ambitious but not unreasonably so.

The fifth goal addressed writing skills. Student could write a three-paragraph essay with many significant errors in formatting, organization, capitalization, and correct end and internal punctuation. When handwriting, Student wrote some letters only in upper case, which was not counted against him in grading for paragraph organization, but was a capitalization error. At the time of the May 2, 2023 IEP, Student could get his ideas out clearly and write a paragraph with pre-writing activities like a graphic organizer and relevant word bank, so long as he was not graded down for handwriting and spelling deficits that were part of his disability. However, Student needed to be able to organize a paragraph, which was a precursor to organizing three-paragraph essays at the fifth-grade level.

This goal required that, when given a grade-level topic, teacher-led pre-writing activities including a graphic organizer, dictation or typing option, and a word bank, Student would produce a correctly formatted paragraph. The paragraph would include a topic sentence, three supporting details, and a closing sentence, with 85 percent

accuracy in each skill of formatting, organization, punctuation, and capitalization. This goal would be measured by student work samples and assessments. Ing drafted this goal to prepare Student for three-paragraph essay writing, which would be required as he advanced through middle school.

The sixth goal addressed organization as a learning skill. Student was regularly going between Parents' separate homes and had challenges in keeping track of his materials and assignments. He was bringing the appropriate materials home and back to school only two days a week. This goal called for Student, with the support of organizational strategies such as a checklist and assignment calendar, to independently bring the appropriate materials home and back to school four of five days per week over a four-week period and maintain his classwork in an organized binder, as measured by teacher-charted records and parent reports.

The May 2, 2023 IEP team discussed support for this goal through checklists requested by Father, an assignment calendar, and Student's general education teacher meeting with Student privately throughout the day to check that Student wrote down assignment information, or obtained it another way, such as by taking a photo of assignments written on the board or getting teacher notes. This goal addressed Student's identified executive functioning needs arising from working memory deficits characteristic of children with ADHD, specifically in the area of organization.

The seventh goal was a technology goal. Student logged into and used his school Chromebook independently, but used the embedded Google Read and Write program only one out of five opportunities to read a page online, and three of five opportunities to write a paragraph. This goal called for Student to independently use assisted reading and writing programs, such as Google Read and Write, Scan and Read

Pro, Universal Reader, Open Office, Google Docs, and Apple iWork, to both read a page and write a paragraph in four of five opportunities as measured by teacher-charted observations and independent work samples. This goal addressed both Student's reading and writing needs. It required Student to take advantage of the tools available to create compositions with less impact from his disabilities. Ing felt strongly that becoming competent with available reading and writing tools could orient Student to a topic and enable him to do grade-level work while minimizing the impact of his reading and writing impairments.

The eighth goal was a complex sentence writing goal added at Parents' request. Student could write two sentences with a conjunction or preposition and his grammar was accurate, but his scores were much lower in capitalization, punctuation, and sentence length. This goal required Student, when given a specific topic, information, and a word bank, to independently compose a single correct complex or compound sentence of 15 words or greater with 95 percent correct grammar, 85 percent correct capitalization, and 95 percent correct punctuation in two of three trials as measured by student work samples and assessments.

Ing preferred that Student focus on accuracy with short sentences but agreed that when Student was intentionally trying to write complex sentences his sentence structure deteriorated. Ing did not think this was a necessary goal, but it did work on appropriate writing skills and was adopted by the May 2, 2023 IEP team.

At hearing, Ing opined the goals in the May 2, 2023 IEP met all Student's academic needs. On cross-examination, she clarified that the goals met all Student's academic needs arising from his disabilities, but that Student had academic needs that would be addressed by the general education curriculum, such as learning subject

content and critical thinking. She also explained that Student would reinforce learned skills and make better progress with practice at reading and writing. The more Student practiced, the faster he would learn which tools and strategies worked best to minimize the impact of his neurodevelopmental deficits on educational performance.

The May 2, 2023 IEP also offered two occupational therapy goals to work on Student's hand stability for handwriting endurance and handwriting legibility. Parent was taking Student for medical examinations regarding Student's ongoing complaints of physical pain in his hands when writing, but it was important to Parents that Student have neat, legible handwriting. Student did not call an occupational therapist to testify, or provide other evidence that the occupational therapy goals in the May 2, 2023 IEP were inappropriate or insufficient to address any fine motor deficits, or sensory needs, related to Student's dyslexia or dysgraphia.

Each of the May 2, 2023 IEP goals addressed Student's specific learning disability in reading and written expression and was based on Student's present levels of academic achievement and functional performance. Each goal was measurable and reasonably obtainable in one year. The May 2, 2023 IEP goals were appropriate to address Student's dyslexia and dysgraphia.

APPROPRIATE ACCOMMODATIONS

An IEP must include a statement of the program modifications or supports for school personnel that will be provided to the pupil to allow the pupil to advance appropriately toward attaining the annual goals and be involved and make progress in

the general education curriculum and to participate in extracurricular activities and other nonacademic activities. (34 C.F.R. § 300.320(a)(4)(i), (ii); Ed. Code, § 56345, subds. (a)(4)(A), (B).)

The May 2, 2023 IEP contained a long list of accommodations for Student's reading, writing, and attention deficits. It included accommodations addressing attention, such as change of setting as needed, obtaining Student's attention before speaking, frequent breaks, and flexible seating to ensure auditory and visual access. It included accommodations for reading and writing, such as extended time on tests and assignments, providing directions in a variety of modalities, and checks for understanding. Reading specific accommodations included access to text-to-speech software, audio books, and reading aloud. Writing specific accommodations included use of speech-to-text, which would include scribing by an adult, teacher's notes, access to adaptive writing equipment, and access to adaptive seat options.

Writing accommodations also included sentence stems to assist with writing, access to a word bank during writing assignments, and spelling graded separately from tests and assignments. Student presented no persuasive evidence that the accommodations offered in the May 2, 2023 IEP were insufficient or inappropriate

The accommodations in the May 2, 2023 IEP were appropriate to support Student's reading and writing challenges.

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MAY 15, 2023 IEP AMENDMENT

As discussed in Issue 1a, the May 15, 2023 IEP was a simple two-page amendment to the May 2, 2023 IEP clarifying dates and services of the 2023 extended school year. There was no persuasive evidence presented of changed circumstances that would have warranted drafting or offering new goals or accommodations at that time.

Student failed to prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

ISSUE 1c: DID SEBASTOPOL DENY STUDENT A FAPE IN THE MAY 2 AND MAY 15, 2023 IEPs BY FAILING TO OFFER INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES?

Student contends Sebastopol denied him a FAPE in the May 2 and 15, 2023 IEPs by failing to offer individualized, evidence-based reading instruction such as a structured, multisensory literacy intervention appropriate for students with dyslexia and dysgraphia. Student also contends that the minutes offered in the IEPs did not reflect the intensity or fidelity of instruction required for students with significant deficits affecting reading and writing.

Sebastopol contends it offered Student structured, multisensory literacy intervention appropriate for Student to make progress on, and meet, his annual goals addressing Student's dyslexia and dysgraphia. It also contends that the number of minutes offered was appropriate.

The IDEA mandates that special education and related services, and supplementary aids and services, be based upon peer-reviewed research to the extent practicable. (20 U.S.C. § 1414(d)(1)(A)(i)(IV); 34 C.F.R. § 300.320(a)(4).) The phrase to the extent practicable means that supports and services should be based on peer-reviewed research to the extent that it is possible, given the availability of peer-reviewed research. (71 Fed. Reg. 46,665 (Aug. 16, 2006).) The IDEA does not require the IEP to include the particular instructional methodology being used. (*Ibid.*; *CR.P., supra*, 631 F.3d at p. 1122).)

IEP teams are not required to have a discussion on the research-based methods offered, or to provide documentation of those methods, as the U.S. Department of Education has determined such a requirement is unnecessary and would be unduly burdensome on the IEP team. (71 Fed. Reg. 46,665 (Aug. 16, 2006).) California law mirrors the IDEA by requiring an IEP to include a statement of the special education and related services and supplementary aids and services, based upon peer-reviewed research to the extent practicable, to be provided to the pupil, and does not add a procedural requirement that the instructional methodologies be written into the IEP document itself. (Ed. Code, § 56345, subd. (a)(4).)

School districts are not required to include specific teaching methodologies in the IEP, unless those specific methodologies are necessary for a FAPE. (34 C.F.R. § 300.320(d)(1); 71 Fed. Reg. 46,665 (Aug. 16, 2006); *C.P., supra*, 631 F.3d at p. 1122.) A parent's disagreement with a school district's educational methodology is insufficient to establish an IDEA violation. (*Carlson v. San Diego Unified School Dist.* (9th Cir. 2010, unpublished) 380 F. App'x 595 (*Carlson*); see also, *Lachman v. Illinois State Board of Education* (7th Cir. 1988) 852 F.2d 290, cert. denied at 488 U.S. 925 [parents do not have a right to compel a school district to provide a specific program or employ a specific methodology in providing for the education of a student with a disability].)

A district is not required to use the methodology a parent prefers when providing special education services for a child. (*Crofts v. Issaquah School Dist. No. 411* (9th Cir. 2022) 22 F.4th 1048, 1056 (*Crofts*)). School districts are entitled to deference when deciding what programming is appropriate as a matter of educational policy. (*Ibid.*, citing *J.L. v. Mercer Island School Dist.* (9th Cir. 2010) 592 F.3d 938, 945, fn. 5 and *Rowley, supra*, 458 U.S. at p. 208.) While a district should maintain an open discussion with parents regarding the use of various educational methodologies, the district ultimately decides which methodology to utilize. (*Carlson, supra*, 380 F.App'x at p. 597.)

The evidence established that the May 2, 2023 IEP offered group specialized academic instruction for 45 minutes daily to support Student's literacy goals. The May 2, 2023 IEP was not required to offer a specific reading instruction program. It was not required to offer dyslexia or dysgraphia services, which Student failed to define in the evidence or in his closing brief. The evidence did not establish that the specialized academic instruction offered Student was anything other than peer-reviewed, research-based reading instruction that included structured, multisensory literacy interventions appropriate for students with specific learning disabilities in reading and writing. The evidence did not establish these interventions were implemented in a manner inconsistent with the teaching manuals and best practices such that they were not an offer of research-based services.

The May 2, 2023 IEP increased the offer of specialized academic instruction from 45 minutes, four days per week, to 45 minutes daily, or a total of 225 minutes weekly. Ing explained to the IEP team, including Parents, what programs and methodologies were implemented in the Learning Center, but Sebastopol was not required to list that information in the May 2, 2023 IEP because Student did not require a specific program or methodology to make progress on his goals.

LEARNING CENTER INSTRUCTION

Special education teacher Ing, Learning Center assistant and later teacher Wiebe, and Director of Student's Services Kelli Lewis testified persuasively and in detail that Sebastopol's specialized academic instruction was provided using peer-reviewed, evidence-based programs and methodologies that included individualized multisensory reading instruction to support Student's reading and writing goals. Each program and methodology was provided consistent with program manuals and best practices.

During the 2022-2023 school year, Ing and a literacy specialist used a variety of curriculum to address different goals. Examples were the Systematic Instruction in

- Phonological Awareness,
- Phonics and Sight Words curriculum,
- Rewards,
- Phonics for Reading, and
- Read Naturally.

The Learning Center teachers also used writing curriculum, sentence unpacking strategies, and phonemic manipulation exercises to address the individual literacy needs of students. Learning Center teachers and staff were trained in Orton-Gillingham, a structured multisensory approach for teaching reading and spelling to students with dyslexia. These programs provided Student with individualized multisensory reading and writing instruction to address his dyslexia and dysgraphia.

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Ing, Wiebe, and Lewis took multiple courses training them to implement individualized multisensory evidence-based reading and writing interventions as part of earning their special education credentials. They were familiar with the programs used in the Learning Center and understood how to individualize instruction to meet Student's dyslexia and dysgraphia needs.

Ing opined knowledgeably and persuasively that 45 minutes of specialized instruction in reading and writing was individually designed and reasonably calculated to enable Student to make progress on his May 2, 2023 annual goals.

During the 2022-2023 school year, as part of his specialized academic instruction minutes offered in the December 7, 2022 IEP, Student received year-long phonics training two to three times each week, in 20-minute sessions. During the first semester, Student worked on his phonics goals individually with a teacher, but later worked in a small group with another student with similar literacy needs. In the remaining specialized academic instruction minutes, Ing worked with Student one-to-one and in a small group on Student's spelling, writing, and comprehension goals. Ing testified knowledgeably that all curriculum could be individualized and used in parts, consecutively or concurrently, to address a student's needs and all instruction was done within publisher's protocols.

Ing's testimony was persuasive and logical. It made sense that if one curriculum did not work well with a student, another curriculum could and should be tried to provide meaningful instruction to children of varying needs and ability levels. In addition, if a student had goals in multiple literacy areas, multiple curriculums could be used to address all literacy needs.

There was no persuasive evidence Sebastopol failed to offer structured, multisensory literacy intervention appropriate for students with dyslexia and dysgraphia, or that the minutes offered in the IEPs did not reflect the intensity or fidelity of instruction Student required. Student did not call his own expert in special education instruction, or any expert in reading and writing intervention programs, to contradict the credible and persuasive testimony of credentialed special education teachers Ing, Wiebe, and Lewis.

Student's expert Dr. VanderVennet was a highly qualified licensed psychologist, with a master's degree in psychology and a doctorate in educational leadership. She had school psychology and general education teaching credentials but was not credentialed to teach students with disabilities.

Dr. VanderVennet offered opinions regarding Student's dyslexia and dysgraphia needs in October 2024 that were not available to the May 2, 2023 IEP team. She was not familiar with and did not recommend specific curriculum to address dyslexia and dysgraphia. She had taken one course on reading interventions as part of her psychology training and had never implemented a reading or writing intervention program. When she assessed Student and presented her report to Student's IEP team in October 2024, she did not offer the IEP team an opinion on specific programs for dyslexia or dysgraphia, and did not suggest a frequency or duration for intervention. Dr. VanderVennet did not observe Student in the Learning Center and did not know which programs were used to target academic skills affected by Student's dyslexia and dysgraphia. Her opinions critical of the specialized academic instruction in the Learning Center, and how it was implemented, were uninformed and unpersuasive.

Student contends he needed a more structured reading intervention like the Seeing Stars program at Lindamood-Bell Learning Processes. Lindamood-Bell provides its proprietary reading programs to children in purchased blocks of hours. It is not a nonpublic agency certified by the state of California to provide specialized academic instruction to students with disabilities. Rachael Siegel, a Development Director responsible for sales at Lindamood-Bell, testified that Seeing Stars was beneficial to children with deficits in working memory, reading, and comprehension, but Siegel was not a licensed psychologist or credentialed teacher. Siegel's only training on "building processing skills" was provided by Lindamood-Bell staff.

Siegel testified that Seeing Stars was research-based because magnetic resonance images, or MRIs, of children's brains before and after Seeing Stars instruction showed changes. Logically, many things will show changes in the brain on an MRI. Siegel did not, and was not qualified to, explain how MRI changes correlated to better working memory, reading, or comprehension.

Siegel explained Seeing Stars can be individualized to each student, with focus on different sections and levels. This individualization was not unlike the individualization in Sebastopol's Learning Center that Student argues was not an evidence-based program. Siegel was unaware of any educational requirements for Lindamood-Bell personnel, called clinicians, who administered the Seeing Stars program to children. Clinicians were overseen by supervisors, credentials unknown, who looked over the collected data at unspecified periods, and children were tested after each purchased package of hours. The specialized academic instruction in the Learning Center was provided by credentialed special education teachers with education, training, and

experience in teaching reading and writing to students with dyslexia and dysgraphia, or assistants working in the presence and under the direct supervision of those credentialed teachers.

Student presented no credible evidence that the programs or methods utilized in the Learning Center were not multisensory. Student presented no credible evidence that the programs or methods utilized in the Learning Center were not peer-reviewed, evidence-based, or were inappropriate to address Student's reading and writing impairments. Student presented no credible evidence that the number of minutes offered, or 45 minutes daily of specialized academic instruction, did not reflect the intensity or fidelity of instruction required for students with significant phonological and orthographic processing deficits.

In the May 2, 2023 IEP, Sebastopol also offered 80 minutes of occupational therapy per month to address Student's poor handwriting endurance and legibility, common characteristics of dyslexia. Vanessa Bird, a licensed occupational therapist who worked with Student from August 2024 and was the only occupational therapist called to testify, did not opine on any IEPs prior to October 1, 2024. Accordingly, the evidence did not establish that the occupational therapy services offered in the May 2, 2023 IEP were not appropriate to address Student's dyslexia or dysgraphia.

The May 2, 2023 IEP offer of specialized academic instruction and occupational therapy was reasonably calculated to enable Student to make appropriate progress in reading and writing in light of his circumstances as required by *Rowley* and *Endrew*.

MAY 15, 2023 EXTENDED SCHOOL YEAR OFFER

After the May 2, 2023 IEP team meeting, Ing and Parent agreed without an IEP team meeting that Student would be offered extended school year services. Parent informed Sebastopol at the May 2, 2023 IEP team meeting that Student would be attending a reading program over the summer.

California special education regulations require that extended school year services be provided for each student with exceptional needs who requires special education and related services in excess of the regular academic year. (Cal. Code Regs., tit. 5, § 3043.) Extended school year services are only necessary to a FAPE when the benefits a disabled child gains during a regular school year will be significantly jeopardized if he is not provided with an educational program during the summer months. (*N.B. v. Hellgate Elementary School Dist.* (9th Cir. 2008) 541 F.3d 1202, 1211.)

Student's complaint did not allege a denial of FAPE for failure to offer extended school year services or placement, and extended school year services were not addressed in Student's closing brief. The evidence on extended school year services offered during the period at issue in this proceeding was sparse and incomplete. Accordingly, the evidence did not show that the special education and related services offered for extended school year 2023 were not reasonably calculated to prevent regression of Student's literacy skills over the summer break.

Student did not prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

ISSUE 1d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE MAY 2 AND MAY 15, 2023 IEPs BY FAILING TO OFFER AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT’S DYSLEXIA AND DYSGRAPHIA?

Student contends the May 2 and 15, 2023 IEPs did not offer a FAPE because Student was retained in general education with supplemental services, without access to specialized programs designed for students with dyslexia and dysgraphia. Student argues that because he failed to make appropriate progress, Sebastopol was required to reevaluate the appropriateness of his placement and consider a setting that could deliver more intensive interventions.

Sebastopol contends it offered Student a FAPE in the least restrictive environment appropriate for him.

The IDEA expresses a clear policy preference for inclusion in general education to the maximum extent appropriate as an aspiration for all children with special needs. (See 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. §§ 300.114 & 300.116; Ed. Code, § 56031.) Educational agencies are required to provide each special education student with a program in the least restrictive environment, with removal from the regular education environment occurring only when the nature or severity of the student’s disabilities is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114; Ed. Code, § 56031.)

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In light of this preference for the least restrictive environment, the Ninth Circuit has adopted a balancing test that requires the consideration of four factors to determine whether a child can be placed in a general education setting. First, the educational benefits of placement full time in a regular class. Second, the non-academic benefits of such placement. Third, the effect the student would have on the teacher and children in the regular class, and fourth, the costs of mainstreaming the student. (*Sacramento City Unified School District v. Rachel H.* (9th Cir. 1994) 14 F.3d 1398, 1403 (*Rachel H.*) [adopting factors identified in *Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1048-1050 (*Daniel R.R.*)].) If it is determined 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., supra*, 874 F.2d at p. 1050.)

The continuum of the program options includes, but is not limited to, from least restrictive to most restrictive:

- regular education,
- resource specialist programs, like the Learning Center,
- designated instruction and services, like occupational therapy,
- special classes,
- nonpublic, nonsectarian schools,
- state special schools,
- specially designed instruction in settings other than classrooms,

- itinerant instruction in classrooms, resource rooms, or settings other than classrooms, and
- instruction using telecommunication, and instruction in the home, in hospitals, or in other institutions. (Ed. Code, § 56361.)

In determining the educational placement of a child with a disability, an educational agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, who consider the requirement that children be educated in the least restrictive environment. (34 C.F.R. § 300.116.) In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs, and the child with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. (*Ibid.*)

California defines a special education placement as that unique combination of facilities, personnel, location, or equipment necessary to provide instructional services to a child with exceptional needs, as specified in the IEP, in any one or a combination of public, private, home and hospital, or residential settings. (Cal. Code Regs., tit. 5, § 3042, subd. (a).)

The May 2, 2023 IEP offered Student placement in a general education classroom, with 17 percent of his school day in special education, in the Learning Center for 45 minutes per day, and in occupational therapy for 20 minutes per week.

In balancing the *Rachel H.* factors, the program offered in the May 2, 2023 IEP was the least restrictive environment for Student. Student received educational benefit from placement in Hale's classroom. With his accommodations and related services support for dyslexia and dysgraphia, Student was learning grade-level material and producing grade-level work. Student benefitted non-academically by participating in classroom activities with neurotypical peers and socializing with his classmates in the classroom and on the playground. Student actively participated in Hale's general education classroom, and enjoyed time spent with peers in the classroom and on the playground. Student did not have any behaviors that disturbed his peers, and there was no showing Sebastopol considered the cost of Student's placement when determining the least restrictive environment. Consistent with *Rachel H.*, Student's least restrictive placement was in the general education classroom with the removal only for specialized academic instruction, occupational therapy, and counseling to support his access to the general education curriculum.

Student was removed from the general education classroom only to address his memory and processing deficits, which manifested as impairments in reading and written expression sufficiently severe that Student could not access the general education curriculum without the support of specialized academic instruction. As discussed at Issue 1c, one 45-minute period per day of specialized academic instruction was the level of specialized instruction necessary and appropriate to address Student's literacy and executive functioning goals. Occupational therapy at 20 minutes per week appropriately addressed Student's hand stability and handwriting legibility that were a consequence of his dysgraphia.

Contrary to Student's assertions in his closing brief, the record reflects Student was making appropriate progress without more intensive reading interventions. In May 2023, Student was earning proficient to excellent marks in grade-level work with the interventions in the December 7, 2022 IEP. His strong comprehension skills, increasing ability to decode text, and accommodations enabled Student to keep pace with the rest of his class and become a valued contributor to class discussions and projects. Student was thriving in his current placement and gaining increasing confidence in his reading and writing abilities.

Unquestionably, Parents wanted Student to do better, faster. Despite Student's cognitive differences and impairments in his ability to read, write, and organize, Parents wanted Student to read as fast as his neurotypical peers and write as neatly and with the same organization. They appeared to equate average intelligence with neurotypical performance, and because Student had average intelligence, Parents expected Student to read and write like a typical grade-level peer.

However, the IDEA does not require a school district offer a program that places a child with disabilities on par with non-disabled classmates. (*Endrew, supra*, 580 U.S. at p. 403.) It requires a school district to offer services and placement designed to enable a child to make progress in light of the child's circumstances. (*Id.*, at p. 400.) Sebastopol met that standard with the placement offered in the May 2, 2023 IEP, and was not required to offer Student a placement with more intensive interventions to address Student's reading and writing impairments.

In the regular education classroom, examinations are administered, grades are awarded, and yearly advancement is permitted for those who attain an adequate knowledge of the course material. (*Endrew, supra*, 580 U.S. at p. 403.) Progress

through this system is what society generally means by an education, and what the IDEA promises. (*Id.*, at pp. 400-401.) An IEP for a student fully integrated in the regular classroom should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade. (*Id.*, at p. 401, citing *Rowley, supra*, at 458 U.S. at pp. 203-204.)

Here, Student's placement in general education, with 45 minutes of daily Learning Center support and 20 minutes of occupational therapy each week, enabled Student to attain adequate knowledge of grade-level course material, receive passing marks, and advance from grade to grade. Student was not entitled to a more restrictive placement outside of regular education to address his dyslexia and dysgraphia with greater intensity as Parents preferred or to bring Student's performance in all areas of literacy to that of his non-disabled peers.

Regardless of whether Student was performing at grade-level in all areas, the IDEA does not require removal from the regular education classroom if a student is making substantial progress toward meeting his IEP academic goals, which indicates he is receiving significant academic benefits from his existing regular classroom placement. (*D.R. v. Redondo Beach Unified Sch. Dist.* (9th Cir. 2022) 56 F.4th 636, 644-645 (*D.R.*)). Although Student had not met his spelling goal by May 2023, which Ing indicated was very much an area of need resulting from dysgraphia, he had met his writing goal of finding and transferring quotes from an article to support his ideas on a current writing assignment, and almost met his executive functioning goal of keeping his things organized and in designated spaces. This progress warranted the May 2, 2023 offer of placement in a general education classroom, with only short removals for specialized academic instruction and occupational therapy appropriate to support progress on the May 2, 2023 IEP goals.

The May 15, 2023 IEP offered 20, 45-minutes sessions of specialized academic instruction and two 45-minute sessions of occupational therapy during a two-month period over summer 2023. There was no argument or persuasive evidence that a return to the Learning Center to prevent regression of learned skills was an inappropriate extended school year placement.

Although Parents announced that Student was attending a summer reading program, Sebastopol was not required to offer placement with a more intensive literacy program, only that which reinforced Student's fifth-grade literacy instruction so that the acquired skills were not lost beyond reasonable recoupment at the beginning of sixth grade.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the May 2 and 15, 2023 IEPs by failing to offer an appropriate placement to address Student's dyslexia and dysgraphia.

ISSUE 2a: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JULY 14 AND SEPTEMBER 21, 2023 IEPS BY FAILING TO OFFER AUTISM ELIGIBILITY?

Student contends he was denied a FAPE in the July 14 and September 21, 2023 IEPs because he was not found eligible for special education under the category of autism. Sebastopol contends that Student was not eligible for special education under the category of autism at the time of those IEPs.

As discussed at Issue 1a, Student was found eligible for special education under the categories of specific learning disability and other health impairment in the May 2, 2023 IEP. The evidence established that in July and September 2023, Student did not

exhibit characteristics of autism in the school setting that adversely affected his educational performance and therefore, Student did not meet the eligibility criteria of autism.

UPDATE TO MULTIDISCIPLINARY PSYCHOEDUCATIONAL REPORT

In May 2023, Parents requested Student's IEP team reconsider whether Student needed additional supports in the school setting due to autism. In response, Sebastopol had school psychologist Lough conduct further observations of Student and obtain autism rating scales from Student's teachers not included in the February 2023 assessment, including Ing, the music teacher, and the handwork teacher. Lough's assessment update report was dated June 6, 2023, but due to the summer break was not reviewed until a September 21, 2023 IEP team meeting. It included additional observations by Lough from the beginning of the 2023-2024 school year.

Lough observed Student in his classroom and on the playground during the last week of the 2022-2023 school year, which was less structured academically and provided Student with social opportunities. In Struye's classroom, Student was walking around with others, signing yearbooks, speaking with classmates, and playing tag with another boy until told to stop. Student's behavior during that observation was typical of most other students in the classroom.

In Lough's second observation before the end of the 2022-2023 school year, Student and another fifth grader were chosen to help first and second graders write year-end thank you cards. The second-grade teacher reported Student independently helped her students and was a useful presence in the classroom.

During Lough's observation at the beginning of the 2023-2024 school year, Student was playing on the playground with two to three boys the entire recess period. Physical and verbal engagement appeared reciprocal in nature. Student appeared at ease when speaking with his classmates, and joined several peers in throwing a basketball.

Rating scales were completed by three teachers who saw Student in different environments, including music class, handwork class, and the Learning Center. Lough also interviewed those teachers. Each scored Student as having minimal to no behaviors indicative of autism. Ing noted Student was easily redirected, easygoing, and flexible. The music teacher noted Student played the upright bass and seemed anxious about trying out for the Honors Orchestra, but reported no atypical behaviors interfering with Student's participation in the classroom. The handwork teacher reported Student executed advanced knitting techniques and overcame any challenges. All three teachers noted Student's persistence and motivation to do well.

Regarding classroom communication, two teachers noted Student sometimes had difficulty explaining his ideas clearly. Ing stated Student expressed himself well orally, but wrote using basic vocabulary, emergent spelling strategies, and simple sentences, all of which were addressed by the May 2, 2023 IEP and not uncommon in students with specific learning disabilities in reading and writing.

Lough concluded Student had established positive relationships with peers and adults. He saw characteristics related to anxiety, atypicality, and functional communication were present, but did not interfere with Student's educational

progress to any significant degree. Lough recommended the IEP team consider monthly counseling as a safeguard to any underlying anxiety or school stress that Student might experience.

JULY 14, 2023 IEP AMENDMENT

On July 14, 2023, Ing issued year-end progress reports on the May 2, 2023 annual goals. For reasons unclear from testimony or documentary evidence, Ing attached the progress reports to an IEP addendum page with an amendment date of July 14, 2023. The July 14, 2023 IEP was not an amendment or an offer of goals, accommodations, services, placement, or any other component of FAPE.

The year-end progress reports attached to the July 14, 2023 IEP addendum page showed Student was making progress on reading sight words, had almost met the letter sound goal, and was reading blends, digraphs, and r-controlled words with good accuracy. Student was also spelling digraphs and r-controlled words with good accuracy, and had passed the phonics screener in CVC words, blends, digraphs and r-controlled words.

Student was producing a paragraph with appropriate capitalization and punctuation, but needed to work on drafting an appropriate topic sentence, three supporting details, and appropriate closing sentences. With the support of a checklist and an assignment calendar, Student was bringing appropriate materials home and back to school four days per week and maintaining classwork in an organized binder. Student had increased use of Google Read and Write to read, but not to write. On the

complex sentence goal, Student composed a complex or compound sentence of 15 words or greater with accurate grammar and capitalization, but needed work on correct punctuation.

On his second semester fifth-grade report card, Student earned proficient and excellent marks in almost all his classes. The few exceptions were marks that he needed attention in grammar and spelling for English language arts, and developing scores in both measuring and scientific illustration, and neatness and organization for work habits.

Student's spring 2023 scores on the statewide California Assessment of Student Performance and Progress tests were issued over the summer. Student exceeded state standards in science and met state standards in both English language arts and math.

Student attended an eight-week reading intervention program by Lindamood-Bell in summer 2023. This program is discussed in detail at Issue 2b.

THE 2023-2024 SCHOOL YEAR

For the 2023-2023 school year, Student's new sixth-grade teacher was general education teacher Jehanne Hale. Ing continued as Student's special education teacher in the Learning Center for his sixth-grade year.

SEPTEMBER 21, 2023 IEP AMENDMENT

An IEP team meeting was held on September 21, 2023, to review the psychoeducational report update and how Student was transitioning to middle school.

Teacher Hale told the IEP team Student actively participated in class by raising his hand and contributing to discussions. She provided Student with notes, and Student smiled throughout the day, seemed a good friend to classmates, and enjoyed playing games at recess with peers. In contrast, Mother told the team Student was stressed at home and cried when he had to go to school.

Lough reported to the IEP team that additional teacher interviews and rating scales had scored Student with minimal to no behaviors indicating autism, with no reports of atypical behaviors interfering with Student's participation in the classroom. Nonetheless, he was concerned that Student displayed some anxiety in the school setting and was exhibiting anxiety at home per Mother's report. Lough recommended that counseling be added to Student's IEP to help Student with anxiety and worry.

Lough opined persuasively at hearing that Student's specific learning disability was at the core of his anxiety. Many students with a specific learning disability felt anxiety because it seemed the curriculum was going too fast. Student had deficits in working memory and would miss things. Student likely had more stressors than his neurotypical peers, which could be exhausting. Student was very conscientious, and between schoolwork and traveling between his Parents' separate homes with different expectations and morning schedules, Lough was not surprised Student experienced some anxiety. Lough recommended stress management be identified as an educational need and addressed with an annual goal.

The September 21, 2023 IEP team did not find Student eligible for special education and related services under the category of autism. The IEP team adopted Lough's recommended stress management goal, discussed at Issue 2b, and added 30

minutes per week of counseling to Student's services, discussed at Issue 2c. The September 21, 2023 amendment was implemented, although no written consent by Parent was offered into evidence.

There was no new information presented at the September 21, 2023 IEP amendment team meeting on which Sebastopol was required to find Student eligible for special education under the category of autism. Quite the opposite. The teachers who completed additional rating scales did not see characteristics of autism interfering with Student's access to education. Student was excelling in music and in handwork, and was a social and frequent contributor in his sixth-grade general education class.

Parent told the September 21, 2023 IEP team Student was having trouble with a classmate on a group project. However, the problem arose when Student declined to write, telling the group "I don't have to write. My writing sucks!" Hale testified persuasively that as Student's time in her classroom progressed, the other students understood and accepted that Student needed some accommodations and welcomed him into their groups. At one point, Student elected to do his own project rather than work in a group with a classmate he disliked, but that was not atypical and Hale let several students do their own projects. This evidence was not persuasive that Student had difficulty with social interactions, let alone required an autism eligibility to receive a FAPE. This evidence demonstrated Student self-advocated for the accommodations in his IEP such as reduced writing assignments.

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The evidence established that in September 2023, Student did not have a developmental disability significantly affecting his verbal and nonverbal communication and social interaction that adversely affected his educational performance. Sebastopol properly did not find Student eligible for special education under the category of autism in the September 21, 2023 IEP.

Student did not prove that Sebastopol denied him a FAPE in the July 14, 2023, and September 21, 2023 IEPs by failing to offer autism eligibility.

ISSUE 2b: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JULY 14 AND SEPTEMBER 21, 2023 IEPs BY FAILING TO OFFER GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA?

Student contends generally that Sebastopol denied him a FAPE in the July 14, and September 21, 2023 IEPs by failing to develop goals to remediate his reading fluency deficits, make him a more independent writer, and teach him to spell at grade level. Sebastopol contends it offered Student goals appropriate to address his dyslexia and dysgraphia.

The July 14, 2023 IEP amendment consisted of progress reports to the IEP written at the end of the 2022-2023 school year, only one month after Parent's consent to the May 2, 2023 IEP on May 5, 2023. Such a short period of implementation did not provide significant information on Student's progress on those goals.

Accordingly, Sebastopol had no new information on July 14, 2023 warranting a change in the goals or accommodations.

SUMMER 2023 LINDAMOOD-BELL PROGRAM

Parents had a history of trying different methods, strategies, or techniques at home to support Student's reading. While Student attended the Spanish language immersion school prior to November 2022, Mother hired a tutor to help Student, and subsequently had Student participate in an online "Lexercise" program for students with dyslexia. At Sebastopol, Father proposed software programs he liked for use in the Learning Center. In May 2023, Parent applied for, and Student was accepted into, a free eight-week, 160-hour summer course of Lindamood-Bell's Seeing Stars reading intervention program funded by Stanford University. Student attended this program instead of the extended school year services Sebastopol offered in the May 15, 2023 IEP.

Stanford sponsored the eight-week program for the purpose of brain imaging participants before and after the program. No one who conducted the study was called as a witness, and whether only Lindamood-Bell's program or multiple programs targeting dyslexia were included in the study was not established at hearing. Similarly, it was unclear if Student's instruction was individualized or standardized for the brain study. Stanford performed MRIs on Student, but no results for Student were offered into evidence.

Lindamood-Bell conducted a variety of standardized literacy tests on Student before and after the Stanford program. It conducted additional assessments at Parent's request on April 12, 2024, one year after the initial assessment was completed, and again on May 15, 2025, two years after the initial assessment. Lindamood-Bell used the same tests each time and conducted them online instead of in-person in conformance with testing manuals.

After the eight-week summer 2023 program, Student demonstrated very little growth in standard scores for vocabulary, oral reading, and math computation, which were already in the average range. Student had a very minor increase in spelling and comprehension, which tested below average. Student showed a 12-point increase in his word attack skills score and some increases in reading accuracy and passage reading. Student's learning aptitude score decreased, although Lindamood-Bell reported this score as nonetheless well above his age equivalent.

As a whole, Lindamood-Bell's testing showed little growth in Student's reading skills after the eight-week program. Subsequent Lindamood-Bell testing in 2024 and 2025 showed that Student experienced greater growth during periods of Learning Center instruction, without Lindamood-Bell. There were a few exceptions, such as spelling scores, which dropped in all Lindamood-Bell's testing. However, rather than demonstrating Sebastopol's program was not improving his spelling, school psychologist Annalise Puentes, opined at hearing it might just as well demonstrate that Student did not retain Lindamood-Bell's spelling instruction.

Puentes was a well-qualified and credentialed school psychologist who attended Student's October 1, 2024 IEP team meeting at Sebastopol's invitation and performed a review of Student's educational records and assessments, including the Lindamood-Bell assessments, for testimony at hearing. Puentes had a professional demeanor, supported her opinions with references to Student's educational records, and was a persuasive witness. Puentes cautioned that standardized results from Lindamood-Bell assessments conducted without conformance to publishers' instructions were invalid and unreliable.

Regardless, Mother did not make Lindamood-Bell's test scores available to the September 21, 2023 IEP team, or any IEP team. These test scores were unknown to Sebastopol until after Student filed his complaint for due process.

Student believed if he completed Lindamood-Bell hours over the summer, he would not be required to go to the Learning Center in sixth grade. When the 2023-2024 school year began, Student was initially reluctant to work in the Learning Center and Ing saw his skills regress. However, Student soon began giving good effort and making progress on his goals.

SEPTEMBER 21, 2023 IEP AMENDMENT

The September 21, 2023 IEP team did not review Student's goals as Student's one-year review was due December 6, 2023, and Student had only been working on his new goals since May 2023.

After Lough's presentation of the assessment update, the IEP team discussed Student's anxiety and his need to learn and implement stress management strategies. Lough proposed, and the IEP team adopted, a counseling goal. The goal called for Student, in a one-to-one setting, to identify his own level of stress, influencing factors, and name up to three personal coping strategies to manage his stress at school as measured by counselor-made activities and Student work samples.

As a further stress reducer, the IEP team added a program modification that Student would not receive spelling homework. Homework other than review of spelling words was rare in Hale's sixth-grade classroom anyway, as she built time to complete assignments into each class.

The IEP team added accommodations to address sources of Student's anxiety, including encouraging Student to take breaks and requiring his teacher to frontload assignments. Another accommodation was added for the teacher to let Student know his modified assignment in advance of when the assignment was presented to the class, which addressed Parent's concern that Student was not always clear on what was expected of him.

The counseling goal added to the September 21, 2023 IEP appropriately addressed Student's newly identified need of stress management related to his dyslexia and dysgraphia. The additional accommodations and program modification in the September 21, 2023 IEP appropriately supported Student in mitigating stress from spelling, one of his greatest areas of need, and from his need for clarification of assignment expectations due to his working memory and organizational deficits.

Because Parent did not share the results of the Lindamood-Bell program with the September 21, 2023 IEP team, the team members were not required to consider that information and how it might inform Student's literacy interventions. On the information available to the September 21, 2023 IEP team, no additional goals or accommodations beyond those adopted at that meeting were warranted relating to Student's dyslexia or dysgraphia.

Student failed to prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the July 14, 2023, and September 21, 2023 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

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ISSUE 2c: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JULY 14 AND SEPTEMBER 21, 2023 IEPs BY FAILING TO OFFER INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES?

Student contends he was denied a FAPE in the July 14 and September 21, 2023 IEPs because the specialized academic instruction offered fell short of the systematic, evidence-based instruction necessary to address his dyslexia and dysgraphia. Sebastopol contends the services offered were appropriate for Student to make progress on his annual goals.

As discussed, the July 14, 2023 IEP addendum was simply a progress report on goals. There were no new goals added requiring additional services to be offered at that time.

However, at the September 21, 2023 IEP amendment team meeting, a counseling goal was added to address Student's disability related needs in stress management. The September 21, 2023 IEP team offered Student 30 minutes per week of individualized counseling on a pull-out basis provided by the school psychologist to work on Student's counseling goal. Lough testified persuasively that although Student's anxiety was mild, his cognitive deficits in memory, processing speed, and attention, as well as his learning impairments in reading and writing, could affect Student throughout his life. Learning stress management strategies would serve Student throughout sixth grade and as he advanced from grade to grade and school assignments relied more heavily on reading and writing.

The type, amount, duration, and location of counseling services were documented in the IEP and appropriate to address Student's mild level of anxiety in the school environment. The IEP team adopted Lough's recommended level of service, which provided Student with weekly opportunities to learn and try new management strategies, and to report back to Lough on which were implemented and effective. Anxiety was not always observable, and regular check-ins with the school counselor ensured Student could consistently identify and manage stress resulting from his disabilities.

The evidence did not establish at Issue 2b that the September 21, 2023 IEP team should have offered additional or different academic goals to address Student's dyslexia or dysgraphia, and there was no evidence that Student should have received more or different services to work on those or any other areas of need at that time. The September 21, 2023 IEP offer was reasonably calculated to enable Student to make appropriate progress in reading and writing in light of his circumstances as required by *Rowley* and *Endrew*.

Student did not prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

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ISSUE 2d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JULY 14 AND SEPTEMBER 21, 2023 IEPs BY FAILING TO OFFER AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends he was denied a FAPE in the July 14 and September 21, 2023 IEPs because he needed a smaller setting with more intensive interventions for dyslexia and dysgraphia than offered. Sebastopol contends it offered Student an appropriate placement in the least restrictive environment.

The July 14, 2023 IEP addendum was no more than a progress report after one month of implementation following Parents May 5, 2023 consent for implementation of the May 2, 2023 IEP goals. At that time, the July 14, 2023 IEP team did not have any information that warranted changed placement.

The September 21, 2023 IEP amendment added a counseling goal and 30 minutes per week of counseling to address Student's mild anxiety and teach him stress management. Thirty minutes per week of one-on-one counseling in the counseling office was a small increase in the amount of time Student would be removed from general education, from 17 percent of his school day to 18 percent, but would not significantly interfere with his access to the general education curriculum.

In balancing the *Rachel H.* factors, the program offered in the September 21, 2023 IEP amendment continued to be the least restrictive environment for Student. Student received educational benefit from placement in Hale's classroom, and with his accommodations and related services support for dyslexia and dysgraphia, was learning grade-level material and producing grade-level work. Student benefitted non-academically by participating in classroom activities with neurotypical peers and

socializing with his classmates in the classroom and on the playground. Student was an active participant in Hale's sixth-grade classroom, and both his peers and Hale valued his contribution to classroom discussions. Student did not have any behaviors that disturbed his peers, although he sometimes went to the Learning Center to use his speech-to-text software so as not to draw attention. Sebastopol did not consider the cost of programs when discussing the least restrictive environment. Consistent with *Rachel H.*, Student's least restrictive placement in which to address educational needs, including his challenges with dyslexia and dysgraphia, was in the general education classroom with the removal only for specialized academic instruction, occupational therapy, and counseling to support his access to the general education curriculum.

In fact, Student's excellent end of the year report card, scores on statewide testing meeting standard, and Hale's report that Student was doing well in the sixth-grade classroom, weighed in favor of the September 21, 2023 IEP team maintaining the May 2, 2023 placement as an appropriate placement for addressing Student's dyslexia and dysgraphia.

Student did not prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer an appropriate placement to address Student's dyslexia and dysgraphia.

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ISSUES 3a, 3b, 3c, AND 3d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE DECEMBER 7, 2023 IEP BY FAILING TO OFFER AUTISM ELIGIBILITY, GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA, INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES, OR AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the December 7, 2023 IEP by failing to make him eligible for special education and related services under the eligibility category of autism, and by failing to make appropriate offers of goals, accommodations, services, and placement. Student contends he should have been, but was not, offered individualized multisensory reading instruction and goals, accommodations, services and placement to address his dyslexia and dysgraphia.

Sebastopol contends Student was not eligible for special education under the category of autism in December 2023. Sebastopol also contends that the components of a FAPE offer developed in the December 7, 2023 IEP were appropriate.

The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. (34 C.F.R. § 300.501(b) & (c); Ed. Code, §§ 56304, 56341.)

The informed involvement of parents is central to the IEP process. (*Winkelman v. Parma City School Dist.* (2007) 550 U.S. 516, 524.) Protection of parental participation is among the most important procedural safeguards in the IDEA. (*Amanda J., supra*, 267

F.3d at p. 882.) Parents not only represent the best interests of their child in the IEP development process, but also provide information about the child critical to developing a comprehensive IEP and which only they are in a position to know. (*Ibid.*) Procedural violations that interfere with parental participation in the IEP formulation process undermine the very essence of the IDEA. (*Id.*, at p. 892; see also *Target Range, supra*, 960 F.2d at p. 1484.)

The fact that it may be difficult to schedule meetings or to work with a parent does not excuse a failure to include the parent in the IEP team meeting. (*Doug C. v. Hawaii Dept. of Education* (9th Cir. 2013) 720 F.3d 1038, 1045 (*Doug C.*)). When confronted with competing IDEA procedural requirements, the agency must make a reasonable determination of which course of action promotes the purposes of the IDEA and is least likely to result in the denial of FAPE. (*Id.* at p. 1046.) In reviewing an agency's actions in such a scenario, the agency will have reasonable latitude in making that determination. (*Ibid.*)

A school district is required to conduct not just an IEP team meeting, but a meaningful IEP team meeting. (*Target Range, supra*, 960 F.2d at p. 1485; see *Fuhrmann v. East Hanover Bd. Of Educ.* (993 F.2d 1031, 1036.) The IEP team must consider the concerns of the parent for enhancing the student's education and information on the student's needs provided to, or by, the parent. (20 U.S.C. § 1414(d)(3)(A) & (d)(4)(A)(ii); 34 C.F.R. § 300.324(a)(1)(ii) & (b)(1)(ii)(C); Ed. Code, § 56341.1, subds. (a)(2), (d)(3) & (f).) A school cannot independently develop an IEP, without meaningful participation by the parent, and then present the IEP to the parent for ratification. (*Target Range, supra*, 960 F.2d at p. 1484.)

Although school district personnel may bring a draft of the IEP to the meeting, the parents are entitled to bring to an IEP team meeting their questions, concerns, and recommendations as part of a full discussion of a child's needs and the services to be provided to meet those needs before the IEP is finalized. (*Assistance to States for the Education of Children Disabilities*, 64 Fed. Reg. (Mar. 12, 1999) 12478-12479.)

STUDENT FAILED TO PROVE AN OFFER OF FAPE WAS MADE, OR THAT SEBASTOPOL WAS REQUIRED TO MAKE AN OFFER OF FAPE, AT THE DECEMBER 7, 2023 IEP TEAM MEETING

An IEP team meeting was convened on December 7, 2023, to develop Student's annual IEP. The following participants attended the meeting:

- Parents,
- school psychologist Lough,
- sixth-grade general education teacher Hale,
- special education teacher Ing,
- Student's math teacher,
- Student's occupational therapist, and
- Sebastopol administrators.

The December 7, 2023 IEP was developed over eight IEP team meetings or non-meeting amendments, including

- January 31, 2024,
- February 29, 2024,

- March 14, 2024,
- May 9, 2024,
- May 29, 2024,
- June 3, 2024,
- June 26, 2024, and
- June 28, 2024.

No FAPE offer was made until Sebastopol's FAPE offer was finalized in the June 28, 2024 IEP.

Sebastopol created a draft of the December 7, 2023 IEP with present levels of performance, progress on goals, and proposed goals. However, it did not make an offer of FAPE at the December 7, 2023 IEP team meeting. Parents expressly requested the meeting be continued so they could review the information presented and discuss the proposed goals and other components of a FAPE offer at another IEP team meeting.

DECEMBER 7, 2023 IEP

In anticipation of the December 7, 2023 IEP team meeting, Parents wrote a letter to Sebastopol stating concerns about Student's literacy instruction. They worried Student did not have a clear and structured approach and was lost when working independently without one-to-one help. Parents wanted Student to have an explicit, structured literacy instruction that was also multisensory. Parents wanted more systematic approaches to progress monitoring to address challenges proactively, that is,

more frequent than the monthly progress reports currently listed as an accommodation in the May 2, 2023 IEP. They requested more than one IEP team meeting to discuss their concerns if the one-year review could not be completed in the two hours scheduled.

At the December 7, 2023 IEP team meeting, teachers reported Student as an enthusiastic and social sixth grader who was kind and empathetic towards his classmates. He enjoyed playing sports in physical education and during recess, particularly basketball, and spending time with friends outside of the classroom. Student got along well with others and actively participated in classroom discussions and activities. Mother reported Student was becoming more independent and more aware of himself and others. She characterized Student as more of an introvert, but valued friendships, with an increased sense of responsibility and keeping his word.

However, during sixth grade, Student's motivation wavered as he became overwhelmed by the middle school caseload, which relied much more heavily on written expression. Lough reported that the homework reduction implemented over the past six weeks had lowered Student's feelings of stress. Mother reported that Student told her he was a failure and sad, to which Lough responded that Student was learning to identify and use coping strategies that Student could generalize to the home setting as well.

Ing reported that Student was a deep thinker, saw connections between concepts, and was curious about the world. When Student was presented with a challenge, even if he was initially bothered, he always made the effort necessary to succeed. Mother reported Student did not know what he was learning in the Learning Center, and Mother wanted better communication for Student and herself about the

structured literacy instruction Student was receiving. Ing agreed to check at the end of each day that Student's Learning Center binder with writing samples went home in Student's backpack.

The December 7, 2023 IEP team reviewed Student's present levels of performance. Student met standards in both English language arts and math in the spring 2023 statewide testing. Student spoke and wrote with grade-level grammar and had increased confidence reading in small groups. Student comprehended grade-level text with sentence unpacking strategies. He wrote at grade level using graphic organizers, speech-to-text software, and Chromebook applications for editing.

The December 7, 2023 IEP team reviewed Student's progress on goals. The occupational therapist reported that Student had not made more than minimal progress on writing endurance, despite trials of several pencil grips, and he still complained of hand pain after one to two minutes. Student met his goal of copying sentences legibly with a model, but without a model, Student's legibility decreased as he had to generate words and figure out spelling. Student continued to have trouble with spacing.

Lough reported that Student had not met his counseling goal but had made progress. Student had developed a foundational knowledge of stress and its impacts on him. Student could identify his own sources of stress, such as reading and writing, and his own symptoms of stress, such as feeling tired or bouncing his knee. Lough explained that this was a skill in progress, and Student needed practice to recognize his stress in real time and time to learn personalized coping strategies.

Ing reported Student's progress on literacy goals. Student had not met his sight word spelling goal, and his peak performance on this goal had been in June 2023. Student met his goal of identifying vowel and consonant sounds. Student met the reading phonics goal, and was reading blends, digraphs, and r-controlled words. Student did not meet his spelling goal but made significant progress. Student significantly improved on formatting paragraphs and met most of his goal in writing organization, formatting, and capitalization, but still had trouble with internal punctuation. Student met his organizational skills goal by bringing appropriate materials from home to school an average of four days per week.

Student disliked using speech-to-text technology in his general education classroom because it drew attention, but when given an opportunity to go to the Learning Center, his use of technology significantly increased. By December 7, 2023, in the Learning Center, Student met his technology goal of using Google Read and Write to read and write.

The December 7, 2023 IEP team determined that Student's areas of need were

- reading fluency and decoding,
- spelling regular and irregular words,
- organizing and editing his written work,
- handwriting,
- fine motor,
- sensory, and
- social emotional support.

The December 7, 2023 IEP team proposed annual goals to address all of Student's areas of educational need. The final goals offered in the June 28, 2024 IEP are discussed in detail in Issue 6.

Student's occupational therapist proposed goals for Student to copy or write three sentences with accurate word spacing, and for Student to demonstrate at least five exercises or activities for improving hand strength to decrease soreness from writing.

Lough proposed an updated stress management goal for Student not only to identify stress management strategies, but to independently identify and practice three personal coping strategies to manage his stress in real time.

Ing proposed five academic goals. One goal was for Student to read variant vowel, low frequency, and multi-syllabic words. This goal created a foundation for Student to read more difficult text aloud with appropriate pacing, intonation and expression.

The second goal called for Student, given a passage at the sixth-grade level, to read with appropriate phrasing and accuracy. Ing had seen Student read in small groups in the Learning Center with greater confidence and wanted to build on his fluency.

The third goal targeted Student's reading comprehension and required him to discern details supporting the main idea of a sixth-grade text. Discerning details would enable Student to understand the text and create outlines, logical notes, and summaries.

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The fourth goal called for Student, after teacher-led pre-writing activities such as brainstorming, lectures, sentence unpacking, notes, and discussion, to write a three-paragraph expository essay with an emerging thesis from grade-level text. This goal targeted Student's need to learn essay writing skills as he advanced through middle school and high school. Teacher-led supports like word banks and graphic organizers supported Student's challenges due to dysgraphia and deficits in attention and executive functioning.

The fifth goal addressed Student's difficulty with spelling sight words, that is, words that cannot be spelled phonetically, by having Student learn homonym pairs. This was designed to teach Student to use the context of word relationships to determine the spelling of words. Example homonym pairs were here and hear, buy and by, and there, their, and they're.

The two hours allotted for the December 7, 2023 IEP team meeting passed before the team was able to discuss the proposed academic goals or move to other parts of the IEP. At that point, Sebastopol honored Parents' request to adjourn and reconvene the meeting for further development of the IEP.

Applying the *Doug C.* standard, the only reasonable course of action for Sebastopol to take on December 7, 2023, was to defer development of the IEP to a later date. Rescheduling the IEP team meeting afforded Parents the opportunity to provide input and allowed for a full discussion of Parent's questions and concerns regarding the recommendations of Sebastopol team members. Sebastopol had no obligation to make an offer of FAPE at the December 7, 2023 IEP team meeting.

Student failed to prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the December 7, 2023 IEP by failing to offer

- autism eligibility,
- goals or accommodations relating to dyslexia and dysgraphia,
- individualized multisensory reading instruction or dyslexia and dysgraphia services, or
- an appropriate placement to address Student's dyslexia and dysgraphia.

ISSUES 4a, 4b, 4c AND 4d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JANUARY 31, FEBRUARY 29, AND MARCH 14, 2024 IEPs BY FAILING TO OFFER AUTISM ELIGIBILITY, GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA, INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES, OR AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to make him eligible for special education and related services under the eligibility category of autism, and by failing to make appropriate offers of goals, accommodations, services, and placement. Student contends he should have been, but was not, offered individualized multisensory reading instruction and goals, accommodations, services and placement to address his dyslexia and dysgraphia.

Sebastopol contends Student was not eligible for special education under the category of autism, and it proposed appropriate goals, accommodations, services and placement for consideration at the January 31, February 29, and March 14, 2024 IEPs.

The January 31, February 29, and March 14, 2024 IEPs documented IEP team meetings to discuss continued development of the December 7, 2023 IEP, which was not completed by March 14, 2024. No offer of special education and related services was or could be made before the development of the IEP was completed on June 28, 2024.

FALL 2023 REPORT CARD AND CHANGE OF LEARNING CENTER TEACHER

On his fall 2023 report card, Student earned A's in Hale's general education classroom for excellent work in geometry, history, and science subjects. Student earned C's for satisfactory work in two other history and science subjects, with the lower grades primarily due to missing or incomplete work. Hale gave Student grades of mastery or proficient in cooperation and collaboration, speaking and listening, and effort. For working independently, Hale graded Student at midway between developing and proficient. Student earned marks of proficient for organization, but punctuality and organizing his materials and workspace were graded as needing attention. From his other teachers, Student earned an A in math, an A in string orchestra, an A in handwork, and an A in games and movement.

In January 2024, Ing went on leave and returned in April 2024. During that time, Wiebe was Student's special education teacher and case manager. Wiebe received her intern credential in 2023 as part of an education specialist credentialing program. Under her intern credential, Wiebe was qualified to provide structured literacy instruction

under the supervision of a credentialed teacher. Wiebe was supervised by Sebastopol's student support services director Karen Erdman during the 2023-2024 school year. Wiebe subsequently received her preliminary educational specialist credential in 2025.

Wiebe had worked in the Learning Center since the 2019-2020 school year and participated in structured literacy training in phonics and reading with Sebastopol's literacy specialist and Ing. In her education specialist credentialing program, Wiebe took multiple classes on the science of reading, phonics, and reading instruction in general, and in teaching children with dyslexia specifically. She was educated in multiple research-based, evidence-based phonics and reading programs, including the Orton-Gillingham method of multisensory instruction, among others. The following 2024-2025 school year, Wiebe became Student's Learning Center teacher and was very familiar with Student's annual goals and progress from November 2022 through the hearing. Her demeanor was professional and forthcoming. She had good recall of Student over the years, and she gave detailed and informative responses to all questions. Her testimony was persuasive and her opinions on how Student's specific learning disabilities in reading and writing presented, implementation of literacy curriculum in the Learning Center, Student's progress on goals, and the reading and writing interventions that enabled Student to make progress on his goals were given significant weight.

Wiebe attended the January 31, February 29, and March 14, 2024 IEP team meetings as Student's Learning Center teacher, along with student support services director Erdman.

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JANUARY 31, 2024 IEP

The continuation of the December 7, 2023 IEP team meeting on January 31, 2024 was attended by

- Parents,
- Hale,
- Wiebe,
- Erdman,
- Student's math teacher, and
- Student's occupational therapist.

Parents agreed with the proposed counseling goal but wanted to further discuss the proposed academic goals and requested an executive functioning goal. They also requested another occupational therapy assessment and instruction in cursive writing as a handwriting strategy. Parents also asked, and Wiebe explained, how Student was being assessed for monthly progress reports.

Wiebe reported Student had made progress in decoding since the December 7, 2023 meeting, so the IEP team agreed a new baseline for the decoding goal would be established.

Parents were concerned about how intonation, expression and pacing, sometimes referred to as prosody, would be measured in the proposed fluency goal. They also wanted the skill level to be increased to seventh grade, as Parents wanted Student to be

at grade level in fluency for seventh grade in the 2024-2025 school year. Wiebe agreed to create a baseline with seventh-grade text, and to revise the proposed fluency goal for seventh-grade text.

Parents requested the proposed reading comprehension goal expressly exclude allowing Student to identify the main idea with multiple-choice answers, as they suspected Student used the proposed multiple-choice answers to figure out the correct response. The current baseline had been determined by Student answering multiple-choice questions, and Wiebe agreed to take new baseline data with open-ended questions instead. Although Hale's class was working on identifying the main idea of a text with all her students, Parents wanted Student, instead, to identify supporting ideas first, then the main idea. Wiebe agreed to make changes to the proposed goal.

Wiebe shared that recently Student seemed less happy and told her he did not want to come to school. Parents reported Student seemed happier with no homework, but reading and writing were still difficult for him and writing physically hurt him. Hale told the team Student was very capable, but Parents requested that the team consider having someone sit with Student one-to-one to assist him throughout the day.

The time scheduled for the January 31, 2024 IEP team meeting passed before the development of the IEP was completed, and the IEP team agreed to reconvene to review Parent's concerns, obtain new baselines, and finalize goals.

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FEBRUARY 29, 2024 IEP

Part three of the December 7, 2023 IEP team meeting to review Student's educational program and develop Student's annual IEP was reconvened on February 29, 2024, with

- Parents,
- Hale,
- Wiebe,
- Erdman, and
- Student's occupational therapist.

Wiebe had provided Parents with revised proposed academic goals and a proposed executive functioning goal before the meeting, and Parents wanted further revisions. On the proposed decoding goal, Parents wanted the goal to be more detailed regarding specific decoding deficits targeted. Wiebe agreed to send Parents a revision.

Parents wanted the proposed fluency goal increased from 90 to 100 words per minute, to which the other IEP team members agreed.

Parents requested the proposed reading comprehension goal be broken down further into steps for Student to determine the main idea. The IEP team agreed to revise the proposed goal for Student to identify three supporting details from a text with greater accuracy than he identified the main idea.

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Parents requested, and were given, the Learning Center rubric for the proposed paragraph writing goal. The proposed goal was discussed but not approved by Parents.

Wiebe described the spelling program proposed for spelling goal, and Parents approved the spelling goal.

The IEP team discussed Wiebe's proposed executive functioning goal to bring appropriate materials home and back to school. Parents wanted Student's compliance tracked in all classes. Student had a binder for the Learning Center, and a binder for all his other classes. However, because Student had multiple teachers in multiple classrooms in middle school, who could not be consulted every day for measurement purposes, the goal was limited to Student's Learning Center binder. General education teacher Hale also agreed to give Student a separate homework folder that he could use to take home assignments he wanted to work on outside of the school day.

The IEP team discussed collaboration between Hale and Wiebe to incorporate topics discussed in general education into Student's work in the Learning Center on annual goals. The allotted time scheduled for the February 29, 2024 IEP team meeting expired, and the IEP team agreed to meet again to give Parents time to review the revised decoding and writing proposed goals, as well as the Learning Center essay rubric.

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MARCH 14, 2024 IEP

Part four of the December 7, 2023 IEP team meeting was held on March 14, 2024, with

- Parents,
- Wiebe,
- Erdman,
- Student's math teacher, and
- Student's occupational therapist.

Parents were unhappy with Student's progress to date and wanted the baselines for goals, particularly his occupational therapy writing goal, reviewed and revised. Parents disputed that Student's work samples demonstrated accurate word spacing and wanted a new baseline established.

Parents expressed concern Student disliked school because handwriting was difficult and questioned a progress report of 80 percent legible writing. The occupational therapist explained that Student wrote letters well independent of cognitive demands. It was only when he was asked to write his own compositions that he began pressing hard and writing less legibly with poor spacing. Hale reported that Student did fine with spacing on his Chromebook, and although he struggled to handwrite five sentences, he was capable of typing his ideas on-screen. Hale's class was scheduled to begin a writing block on the Chromebook, and the occupational therapist proposed a keyboarding goal. The occupational therapist agreed to obtain a typing baseline.

Parents shared Student was starting to say he did not like school again, and they thought the problem was his lack of progress in handwriting. Hale saw Student as a social young man at school who was getting good grades and making progress, and suggested Student's distress was from having to finish assignments at home if they were not finished in class. Mother told the IEP team Student had not understood his assignment the night before, to which Hale responded she had checked his understanding with Student five times the day before. The IEP team agreed Student's accommodations would be revised to include alternate nonwritten ways of communicating learned material, such as voice clips, videos, or projects, to reduce the writing required of Student.

The IEP team reviewed the revised writing goal baseline with open-ended questions instead of multiple-choice answers to identify the main idea. Father stated he had found an essay writing program that he would share with Hale and Wiebe.

The time allotted for the March 14, 2024 IEP team meeting ran out before the development of the IEP could be completed.

Applying the *Doug C.* standard, the only reasonable course of action for Sebastopol to take on March 14, 2024, was to again defer development of the IEP to a later date amenable to Parents, and another meeting was scheduled for May 9, 2024. Rescheduling the IEP team meeting to a later date allowed Wiebe and the occupational therapist to obtain the new baseline requested by Parents. It afforded Parents the opportunity to provide input and allowed for a full discussion of Parent's questions and concerns regarding the remaining goals and other pending components of the IEP. Sebastopol had no obligation to make an offer of special education and related services in the January 31, February 29, and March 14, 2024 IEPs.

Student failed to prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer

- autism eligibility,
- goals or accommodations relating to dyslexia and dysgraphia,
- individualized multisensory reading instruction or dyslexia and dysgraphia services, or an
- appropriate placement to address Student's dyslexia and dysgraphia.

ISSUES 5a, 5b, 5c AND 5d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE MAY 9, MAY 29, AND JUNE 3, 2024 IEPs BY FAILING TO OFFER AUTISM ELIGIBILITY, GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA, INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES, OR AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to make him eligible for special education and related services under the eligibility category of autism, and by failing to make appropriate offers of goals, accommodation, services, and placement. Student contends he should have been, but was not, offered individualized multisensory reading instruction and goals, accommodations, services and placement to address his dyslexia and dysgraphia.

Sebastopol contends Student was not eligible for special education under the category of autism, and the goals, accommodations, services, and placement proposed for consideration at the May 9, May 29, and June 3, 2023 IEPs were appropriate.

THIRD LINDAMOOD-BELL ASSESSMENT

On April 12, 2024, Mother had Student reassessed by Lindamood-Bell, using the same tests as before and conducted online contrary to publishers' instructions. Student scored at or above his age equivalent or grade level in

- receptive vocabulary,
- expressive vocabulary,
- phoneme awareness on one test,
- word recognition,
- reading comprehension,
- reading rate, and
- symbol imagery.

All of these scores were an increase in Student's scores since he left Lindamood-Bell's summer program eight months earlier in August 2023. Student's scores dropped in math computation, paragraph reading, reading accuracy and reading fluency, and in Lindamood-Bell's own test of phoneme awareness. Student's recall of paragraphs from the third grade through college levels varied, with Student notably recalling 100 percent all of what he read at the fifth-grade level, 63 percent at the eighth-grade level, 50 percent at the 12th-grade level, and 38 percent at the college level. On informal tests

of writing, Student identified 48 of 50 symbols to sound, and two of three nonsense spelling words. Parents did not share the results of this testing with Sebastopol.

Prior to the upcoming May 9, 2024 IEP team meeting, Parent requested Sebastopol fund independent educational evaluations in speech and language, psychoeducation, and occupational therapy. On May 3, 2024, Sebastopol agreed to fund those assessments.

MAY 9, 2024 IEP

On May 9, 2024, Sebastopol convened part five of the December 7, 2023 IEP, to review Student's ongoing progress and finalize goals, services, and the remaining parts of the annual IEP. Progress reports on occupational therapy and literacy skills goals had been gathered on May 3, 2024.

Ing had returned from leave, and attended the IEP team with Parents, Lough, Hale, Wiebe, and Student's occupational therapist.

Student's occupational therapist gave an update on the new baseline for the proposed goal to copy three sentences with accurate spacing. Student was achieving 95 percent word spacing accuracy when copying one sentence during an occupational therapy session, but only 50 percent accuracy in classroom work samples. On the goal for Student to demonstrate five exercises or activities to improve hand strength, Student could demonstrate three. Student's baseline on the proposed typing goal was seven words per minute.

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Ing had obtained a new baseline for the proposed decoding goal and broken it down to component parts of real and nonsense words, variant vowel words, low frequency spelling words, and multisyllabic words.

On the proposed reading fluency goal, Student's baseline was 57 words per minute for seventh-grade text, with significant inaccurate phrasing and pacing.

On the proposed reading comprehension goal, Student was already identifying the main idea of a seventh-grade passage with 100 percent accuracy, although supporting details were at 67 percent accuracy.

Parents did not agree with the proposed essay writing goal or the proposed spelling goal, and Ing did not have new baselines.

On the executive functioning goal requested by Parents, Student independently organized his Learning Center binder and tracked his goals, materials, and assignments in 1.5 opportunities of five.

Lough discussed changing the proposed individual counseling services from 45 minutes per week to 180 minutes per month, to give Lough flexibility in the length of counseling sessions with Student. Parents were not in agreement with that recommendation.

The amount of time scheduled for the May 9, 2024 IEP team meeting ran out, and the team agreed to reconvene the IEP team meeting to finalize the development of the annual IEP.

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PARENTS' REQUESTS FOR COMPENSATORY EDUCATION

On May 23, 2024, Mother emailed Sebastopol to request compensatory education services because Student had not met all of his previous annual goals at the time of the December 7, 2023 IEP team meeting and Parents wanted to see more progress. Mother also complained that time taken to assess Student for progress reports inappropriately reduced the amount of specialized academic instruction Student received.

In the May 23, 2024 email, Mother requested 80 hours of Lindamood-Bell instruction over summer 2024. Mother informed Sebastopol, for the first time, that Student had taken an intensive eight-week program with Lindamood-Bell in summer 2023, which she characterized as resulting in exceptional improvement in Student's reading and decoding skills. Sebastopol declined Mother's request.

In her May 23, 2024 email, Mother did not share the results of Lindamood-Bell's assessments on May 8, 2023, August 7, 2023, and April 12, 2024. Those results showed little improvement in most scores after Student's completion of the Lindamood-Bell program in summer 2023, and greater improvement after leaving the program. In fact, Student's documented regression over summer 2023 was the basis for summer 2024 extended school year services being proposed in the draft December 7, 2023 IEP.

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MAY 29, 2024 IEP

Sebastopol convened part six of the December 7, 2023 IEP team meeting on May 29, 2024. Attending the meeting were:

- Parents,
- Lough,
- Hale,
- Ing,
- Wiebe,
- Erdman, and
- Student's occupational therapist.

The occupational therapist noted Student had already met the proposed goal for copying text legibly. She recommended retaining the hand strength goal, and the typing goal.

Lough reported Student was passive when feeling stressed and did not request assistance when needed, although Student was receptive to help when approached by his teachers. Student had created a self-monitoring checklist in counseling sessions to use in the classroom, but Student was asking for help inconsistently.

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Ing reported Student, working on the May 2, 2023 fluency goal, was reading aloud with 98 percent accuracy at 100 words per minute. She told the May 29, 2024 IEP team she did not recommend adding phrasing and intonation to the proposed reading fluency goal until Student's fluency was a bit higher. Student had already met the May 2, 2023 phonics goal for reading all types of designated words except low frequency spelling words, and Sebastopol IEP team members no longer recommended a reading phonics goal. Ing suggested low frequency words could be targeted as part of the reading fluency goal. Parents requested that Ing update the proposed writing goal to include teacher-written introductory and concluding paragraphs.

The occupational therapist recommended individual occupational therapy services continue at 20 minutes weekly, and proposed an accommodation of a full-size keyboard for Student's use at school and at home, in addition to his school-issued Chromebook. The IEP team agreed to adjourn and reconvene to finalize academic goals, accommodations, and services for Student's annual IEP.

JUNE 3, 2024 IEP

Part seven of the December 7, 2023 IEP was reconvened on June 3, 2024, with

- Parents,
- Lough,
- Hale,
- Ing,

- Wiebe,
- Student's occupational therapist,
- Erdman, and
- another school administrator.

By this time, all team members were frustrated at the lack of progress on completing the IEP, and the meeting was contentious.

Ing and Wiebe recommended the reading fluency goal focus on Student's fluency rate, that is, speed of word recognition and decoding, and that prosody, or intonation, be added after Student achieved an accurate reading speed of greater than 100 words per minute. Ing told the IEP team correct intonation often grew with reading speed, as did comprehension. However, Mother wanted prosody measured and reported, and Father asked the team to document the sequence of learning for Student to show where prosody was in that sequence. After further discussion, there was tentative agreement to include prosody in the baseline but not in the goal.

To address Parents' earlier concern that Student was using the information from the multiple-choice questions themselves as clues to the main idea in his comprehension goal, Ing reworded the proposed comprehension goal to state Student would orally identify the main idea of a text with an open-ended response.

The proposed essay writing goal was changed

- to list teacher-led pre-writing activities,
- to require a three to five paragraph expository essay,

- to specify writing supports that would be provided, and
- that Student would achieve a particular accuracy in paragraph formatting, conventions, and organization.

Paragraph formatting, conventions, and organization were also further defined.

Mother wanted to know how a graphic organizer worked and questioned if it was an appropriate way to support Student's writing. Ing and Wiebe explained that Student had successfully used the graphic organizer to draft essays in fifth and sixth grade and explained how it worked. Parents then asked how paragraph writing would be taught or sequenced. Ing and Wiebe explained that the sequence was to identify supporting details from the text, evaluate the details to choose the best three for the paragraph, complete an outline, write the final draft, and edit the final draft with an editing checklist. Mother then requested a new goal with two of those skills identified as a benchmark, which Ing agreed to draft.

Ing rewrote the proposed spelling goal to identify the 20 homonyms targeted. Wiebe explained that Student understood many foundational spelling rules but did not apply them consistently. Ing explained that the more Student saw words spelled correctly the more he would consistently spell those words correctly or be able to find them in a word list or dictionary. The words included in the goal were used often in academics and were functional in life. Knowing the spelling of high-frequency homonyms would also support comprehension when applied during reading. Mother was agreeable to the proposed spelling goal.

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The IEP team discussed the proposed executive functioning organization goal for Student to bring appropriate materials home and back to school. Parents wanted to know how the baseline had been established because it seemed worse than for the December 7, 2022 executive functioning goal. Ing explained that Student was now responsible for filing his materials and reorganizing the Learning Center binder himself and, after initial setbacks, was starting to do better but still needed to learn organizational strategies.

Regarding accommodations, Mother wanted updates on Student's progress every two weeks, rather than once each month. Lough proposed the IEP include a monthly check-in meeting between the teacher, case manager, and Parents instead, and Parents were agreeable.

The June 3, 2024 IEP team meeting was not completed within the time allotted, and Sebastopol adjourned the meeting to be reconvened to complete the IEP. Parents requested a revised draft of the December 7, 2023 IEP reflecting the proposed changes to date. No offer of special education and related services was made, or required to be made, in the May 9, May 29, or June 3, 2024 IEPs.

Student failed to prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer autism eligibility, goals or accommodations relating to dyslexia and dysgraphia, individualized multisensory reading instruction or dyslexia and dysgraphia services, or an appropriate placement to address Student's dyslexia and dysgraphia.

ISSUE 6a: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JUNE 26 AND JUNE 28, 2024 IEPS BY FAILING TO OFFER AUTISM ELIGIBILITY?

Student contends Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs, by failing to make him eligible for special education and related services under the eligibility category of autism.

Sebastopol contends Student was not eligible for special education under the category of autism on June 26 or June 28, 2024.

JUNE 26, 2024 IEP

Sebastopol convened part eight of the December 7, 2023 IEP team meeting on June 26, 2024. Both Parents and Sebastopol brought attorneys to the IEP team meeting.

The June 26, 2023 IEP team reviewed Student's present levels of performance and baselines, and finalized the goals and accommodations, discussed in more detail at Issue 6b.

The June 26, 2024 IEP team reviewed and discussed proposed services. Parents requested that some of Student's specialized academic instruction be provided in a push-in model in the general education classroom, rather than as pull-out model with instruction in the Learning Center. However, other IEP team members disagreed with the appropriateness of that model for Student, and Sebastopol did not make that change to the proposed IEP.

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The June 26, 2024 IEP's offer of specialized academic instruction was retained at 225 minutes per week, or 45 minutes per day in a group. Individual occupational therapy was left at 80 minutes per month. Counseling services increased from 30 minutes per week to 180 minutes per month, allowing flexibility in the length and timing of sessions.

The IEP team discussed the least restrictive environment and placement options and offered placement in a general education classroom for 81 percent of the school day, with 19 percent in the Learning Center, occupational therapy, and counseling.

Student was offered extended school year for summer 2024. Sebastopol agreed to create a final copy of the IEP and send it to Parents, and the meeting was adjourned.

JUNE 28, 2024 IEP

The June 28, 2024 IEP was simply a clean copy of the final changes made to Student's draft annual IEP by the June 26, 2024 IEP team. This document embodied Sebastopol's annual IEP offer of special education and related services which had been developed over the course of eight IEP team meetings beginning December 7, 2023. There was no IEP team meeting on June 28, 2024.

The June 28, 2024 IEP was sent to Parents on the same day. Parents did not consent to the June 28, 2024 IEP.

The June 28, 2024 document was written as the June 28, 2024 amendment to the December 7, 2023 IEP. It will be called the June 28, 2024 IEP in this Decision.

2023-2024 GRADES AND STATEWIDE TESTING

On Student's report card at the end of the 2023-2024 school year, Student earned A's in the history, economics, astronomy, technology, the class play, string orchestra, and games and movement. Student earned B's in math, physics, woodworking, and a community service project.

On the spring 2024 statewide standardized testing, Student barely missed the state standards for math and history by a few points. Student met the English language arts standard. On the subparts of the English language arts testing, Student scored above standard in reading, and below standard in writing.

FAILURE TO PROVE AUTISM ELIGIBILITY

The June 28, 2024 IEP offered Student eligibility for special education under the categories of specific learning disability and other health impairment. The IEP stated Student had attention and academic challenges due to his ADHD, dyslexia and dysgraphia, and noted Student's autism spectrum disorder diagnosis.

As discussed at Issues 1a and 2a, assessments reviewed in February 2023, and at the beginning of the 2023-2024 school year in September 2023, found that Student did not exhibit characteristics of autism in the school setting that adversely affected his educational performance at that time.

In addition, the evidence did not demonstrate that there was new evidence Student exhibited characteristics of autism that adversely affected his educational performance on June 28, 2024. At the time of the June 2024 IEPs, Student's teachers and service providers observed him engaging in age-appropriate communication with

peers, having friends in the classroom and being a valuable contributor to classroom projects and discussions. In June 2024, Student was earning good to excellent grades with the supports and services for his dyslexia, dysgraphia, and ADHD.

The evidence did not establish that Student's autism significantly affected his verbal and nonverbal communication and social interaction. In counseling sessions and on campus during the 2023-2024 school year, Lough observed Student liked being around other students, other students liked Student, and Lough never saw Student alone or disassociated from peers.

Wiebe worked with Student in the Learning Center from the 2022-2023 through the 2024-2025 school year, and did not see autism characteristics or traits that affected his learning. Wiebe characterized Student as an avid learner and good at initiating and maintaining reciprocal conversations. Ing provided specialized academic instruction to Student in 2022-2023 and 2023-2024, and testified that after December 2022, as Student became more comfortable around her, he had good eye contact, expressed his ideas well, and she did not see Student exhibiting any unusual sensory responses.

By the end of sixth grade, Hale observed that Student did well socially, interacted with peers and adults appropriately, was never alone, and was always engaged with peers. Many of these statements were corroborated in responses to autism rating scales gathered by Dr. VanderVennet at the end of the 2023-2024 school year, as discussed at Issue 7. There was no new evidence that Student displayed other characteristics of autism in the school setting, such as engagement in repetitive activities, stereotypical movements, resistance to environmental change, or unusual sensory responses.

Accordingly, the totality of the evidence did not establish that in June 2024, Student exhibited deficits in verbal and nonverbal communication and social interaction that adversely affected his educational performance. Student did not meet the criteria for autism eligibility in June 2024.

Student failed to prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer autism eligibility.

ISSUE 6b: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JUNE 26 AND 28, 2024 IEPs BY FAILING TO OFFER GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE by failing to offer appropriate goals and accommodations for Student's dyslexia and dysgraphia in the June 26 and June 28, 2024 IEPs. Student contends Sebastopol's goals failed to remediate Student's reading fluency and spelling deficits, core markers of dyslexia, or bring either to grade level. He contends Sebastopol offered writing goals with too much teacher assistance to make Student an independent writer at grade level. Student's closing brief did not address his accommodation claim.

Sebastopol contends the goals addressed all Student's dyslexia and dysgraphia-related needs, as did the accommodations offered.

The goals in the June 28, 2024 IEP were appropriate to address Student's identified needs in reading and writing. They were based on Student's present levels of academic

achievement and functional performance, with baseline updates throughout the development of the IEP, and progress reports as recently as June 3, 2024. The goals were measurable and reasonably achievable within one year.

The June 26, 2024 IEP team collaborated with Parents to make the goals realistic but ambitious. Some goals were fine-tuned to address areas of specific deficit, such as learning common reading words that did not follow phonetic rules. Some worked on acquisition of skills that were steps to more advanced skills, such as learning the rules of a paragraph and sentence conventions as preparation for writing well-formatted and persuasive essays. Others, like Student's annual counseling and executive functioning goals, were developed to teach Student strategies addressing stress management and organization he could generalize to both school and home settings. Each goal in the June 28, 2024 IEP was designed to enable Student to be involved, and make progress, in the general education curriculum.

The hand strength goal called for Student to independently demonstrate at least five exercises for improving hand strength to decrease hand soreness during writing in three of four trials. Student participated in hand strength exercises but did not demonstrate them independently. This goal appropriately addressed Student's pain during handwriting, which was an obstacle to handwritten work and a common characteristic of dysgraphia, and would teach him exercises that could be used across settings.

The typing goal required Student, after preparatory hand stretches, to type sentences from near-point copy at 15 words per minute in three of four opportunities as measured by occupational therapy and special education teacher data and observations. In June 2024, Student typed six words per minute when copying. Occupational therapist

Bird testified there was no metric on appropriate typing speeds by age or grade, as typing speed was related to experience and how long someone had been typing. Bird testified 20 to 40 words per minute is an average keyboard user rate, and special education teacher Ing opined at hearing that 15 words per minute was an acceptable entry level speed. Bird, who worked with Student during the 2024-2025 school year, was a licensed and well-qualified occupational therapist. Her testimony was credible, persuasive, and uncontradicted as no other occupational therapist was called to testify.

Both Bird and Ing testified persuasively that typing skills would not only minimize the hand pain Student experienced during handwriting but would be an increasingly important skill as Student advanced to high school where typewritten work was expected.

The counseling goal called for Student, in a one-to-one counseling setting, to independently identify and practice three personal coping strategies to measure his own stress level, and spontaneously use one of those strategies in a school setting one time per week for three consecutive weeks, as determined by counselor-made activities and self-reporting. This annual goal built on Student's ability to identify his symptoms of stress and possible management strategies, requiring Student to learn to implement stress management techniques in real time. It directly addressed reports that Student was not taking steps to manage his disability-related stress, such as asking his teachers for clarification or help when needed.

The reading fluency goal called for Student, given a reading passage at the seventh-grade level, to read 100 words per minute with 98 percent accuracy in two of three trials as measured by Student's reading log and teacher-charted records. Student's baseline of reading a seventh-grade passage aloud was 62 words per minute

with 95 percent accuracy, with 20 percent appropriate pacing and phrasing. Ing persuasively testified that 100 words per minute was an appropriate, but also ambitious, fluency rate, particularly as Student was showing good comprehension in sixth-grade texts at 81 words per minute. It was also appropriate to include pacing and intonation in the baseline but not the goal, as pacing and intonation naturally come with increased fluency.

The reading comprehension goal required Student, after reading a seventh-grade level narrative or expository passage and asked to respond to open-ended questions, to orally identify the main idea with 80 percent accuracy and three supporting details with 90 percent accuracy, in two of three trials as measured by teacher-charted records and Student work samples. This goal targeted Student's need to identify a main idea and supporting details to comprehend and exhibit mastery of course materials. It also targeted skills Student needed to develop for the foundation of a written essay. The goal was rewritten to address Parents' concern voiced at the January 31, 2024 IEP team meeting that Student would use multiple-choice answers for context. This goal also had a revised baseline of identifying the main idea with 33 percent accuracy and supporting details with 67 percent accuracy, gathered using only open-ended questions and oral responses.

The writing goal called for Student, after teacher-led pre-writing activities, such as brainstorming, lectures, discussion, and video, and given a graphic organizer for a three to five paragraph expository essay, a word list, legible notes, sentence stems, an editing checklist and appropriate introductory and concluding paragraphs, to compose three supporting paragraphs with 85 percent accuracy in the areas of paragraph formatting, conventions, and organization appropriate to the thesis in two consecutive trials as measured by Student work samples. Formatting was defined as sentence

structure, indenting, and left justification. Conventions were defined as punctuation, capitalization, and grammar. Paragraph organization was defined as a topic sentence, three related details, and a closing sentence.

The baseline for the writing goal broke down Student's level of performance according to the separate categories stated in the goal. That is, Student composed an introductory paragraph for a three to five-paragraph essay with a score of 1 of 4 on the Learning Center rubric. His three-paragraph essays earned a 1.25 of 4 on the rubric, and three supporting paragraphs were

- 49 percent correct in formatting,
- 63 percent correct for punctuation,
- 100 percent correct in grammar, and
- 67 percent correct in related details and closing sentence.

This goal addressed Student's dysgraphia-related writing challenges, and the detailed breakdown in measurement addressed Parents' concern that the Learning Center rubric score alone would not identify how Student performed in each of the rubric categories.

The executive functioning goal required Student to independently organize his Learning Center binder papers in the appropriate sections in four of five opportunities as measured by teacher-charted records and goal tracker maintained by Student. The baseline indicated Student filed his papers appropriately in his Learning Center binder with one prompt two of five opportunities, and in his classroom binder in one of five opportunities.

Although Hale and Ing testified credibly and with some exasperation that it was common for many middle school students to have difficulty organizing and tracking their materials, Student's poor working memory and attention resulted in executive functioning deficits that were specifically targeted by this goal. In addition, as Student learned to organize and track materials for one class, this skill could be expected to generalize to all his classes. The inclusion of daily tracking of this goal by Student would give Student a record of progress to reinforce, remind, and motivate him. It also provided Parents with a means of verifying and supporting Student's efforts to organize his materials and turn in his homework, particularly during regular transitions between Parents' homes.

The spelling goal called for Student, when asked, to identify a list of 20 homonyms in a dictated sentence, and to write the correct homonym with 85 percent accuracy in two of three trials as measured by Student work samples. The specific homonym pairs were stated in the goal. The contextual impact of each word was reasonably calculated to reinforce the different spelling patterns and strengthen Student's memory for those common words. Student's ability to spell was impacted by his dyslexia and dysgraphia, and this goal provided an important tool for reading and writing, using context as a memory reinforcer.

The goals in the June 28, 2024 IEP addressed Student's dyslexia and dysgraphia. The occupational therapy goals addressed the physical pain resulting from Student's dysgraphia during handwriting, and provided Student an alternative method of written expression. The academic and executive functioning goals addressed Student's reading and writing impairments, and poor working memory, which were characteristic of ADHD,

dyslexia, and dysgraphia. The counseling goal supported Student's challenges with dyslexia and dysgraphia by minimizing his anxiety around reading and writing tasks and giving him personalized stress management reduction strategies.

Student's argument that these goals must have been inappropriate because Student was not making progress in reading and writing, and because his fluency, spelling, and writing were not brought up to grade level, is unpersuasive for several reasons. First, Student was making progress in several areas of literacy. Student's decoding skills were sufficiently strong to access grade-level text, and his comprehension was at grade level. In spring 2024, Student's above level reading scores in English language arts on statewide testing and strong report card grades demonstrated strong growth in reading. Ing testified credibly that over the 2023-2024 school year, she saw Student's reading speed and accuracy increase, and Student showed more confidence in reading aloud in groups.

Student had less growth but still made significant progress in writing skills. Both Ing and Wiebe persuasively opined that over the 2023-2024 school year, Student learned to dictate and write a paragraph, his sentences were accurate and easy to understand, and he showed increased confidence in writing essays. Student organized his thoughts in a coherent way and edited his essays to make the most sense. Student's spelling, his greatest literacy deficit, did not interfere with Student's composition, except when editing.

Sebastopol's June 3, 2024 IEP team members recognized Student's progress in literacy skills and sought to build on it with the offered academic, occupational therapy,

and counseling goals. The June 3, 2024 IEP goals appropriately addressed Student's identified educational needs, particularly relating to his specific learning disability with impairments in reading and written expression.

The June 28, 2024 IEP offered accommodations and modifications appropriate to support Student's challenges with reading and writing. The accommodation of a full-size keyboard supported Student's typing goal. Alternate ways of communicating material both addressed Student's dysgraphia by enabling him to complete assignments and show mastery of course material with less impact from his dysgraphia. Monthly consultations were offered between Student's counselor and the teachers to help identify sources of stress resulting from Student's specific learning disabilities and inform teachers on how they could support Student in stress management. These accommodations were offered in addition to the accommodations retained from the prior year's annual IEP and were reasonably calculated at the time of the June 28, 2024 IEP to address Student's needs resulting from dyslexia and dysgraphia.

Sebastopol was not required to bring Student to grade-level performance in his areas of disability. The question is whether an IEP is reasonable, not whether it is ideal. (*Endrew, supra*, 580 U.S. at p. 399.) Neither was Sebastopol required to remediate Student's disabilities. The IDEA does not require every special education service, or goal or accommodation, necessary to maximize the potential of every child with disabilities. (*Rowley, supra*, 458 U.S. at p. 199; *D.R., supra*, 56 F.4th at p. 644.) Student had multiple significant neurocognitive disorders that manifested as specific learning disabilities in reading and written expression, and his average intelligence did not require Sebastopol to ensure Student performed in reading, writing, and spelling as did his neurotypical peers without the aid of supplementary aids and services.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

ISSUE 6c: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JUNE 26 AND 28, 2024 IEPS BY FAILING TO OFFER INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLEXIA AND DYSGRAPHIA SERVICES?

Student contends he was denied a FAPE because the June 26 and June 28, 2024 IEPs did not offer systematic, evidence-based instruction to address Student's dyslexia and dysgraphia. He contends Sebastopol staff were unqualified to provide systematic evidence-based instruction, and that the specialized academic instruction minutes offered did not reflect the intensity or fidelity of instruction required for Student's significant processing deficits.

Sebastopol contends it offered evidence-based literacy interventions reasonably calculated to enable Student to make progress on the annual goals that addressed Student's dyslexia and dysgraphia.

The June 28, 2024 IEP, offered Student 225 weekly minutes of group specialized academic instruction in the Learning Center. The services included 45-minute sessions, five times per week, to support reading instruction, reading comprehension, writing organization and conventions, and spelling.

This level of specialized academic instruction implemented since May 2023 after Parent consented to the May 2, 2023 IEP, had enabled Student to make significant progress on all his annual goals, and meet many of them, while accessing grade-level curriculum as discussed at Issue 6b.

As discussed at Issue 1c, through its offer of specialized academic instruction, Sebastopol offered Student individualized, multisensory, evidence-based programs and instructional methods with specialized academic instruction in the Learning Center. Instruction was individually chosen to address Student's unique needs resulting from dyslexia and dysgraphia. During the 2023-2024 school year, Sebastopol adopted the Barton curriculum, a structured literacy program that targeted reading and spelling using an Orton-Gillingham approach effective with students with dyslexia. During the 2023-2024 school year, the Learning Center was staffed with teachers credentialed in special education and highly qualified to teach literacy skills to students with dyslexia and dysgraphia. Ing and Wiebe provided all instruction in accordance with publisher's protocols and best practices for teaching students with mild to moderate disabilities.

In the Learning center, Student received specialized academic instruction in a small group of no more than three. In addition, Ing, Wiebe, and Learning Center instructional assistants worked one-to-one with students, including Student, to reinforce and supplement group lessons. Ing and Wiebe individualized instruction to target Student's goals, and they regularly assessed Student and made appropriate instruction adjustments for Student's learning.

There was no persuasive evidence that the teachers were unqualified to implement the literacy programs in the Learning Center, or that the intensity or fidelity of such instruction offered in the June 28, 2024 IEP was not appropriate. Student did not prove that multiple programs could not be properly implemented concurrently or consecutively, or that the frequency and duration of the specialized academic instruction was not reasonably designed to enable Student to make progress on his annual goals.

Student argues that Sebastopol's specialized academic instruction must have been insufficient to meet Student's needs because he was not an independent writer, or a good speller, after a year and a half of Learning Center services. Parents understandably wanted their child to perform like his neurotypical peers, but that does not account for Student's significant neurocognitive deficits in attention, memory, and processing speed that overlap and exacerbate Student's specific learning disability with impairments in reading and writing.

As discussed at Issue 6b, during the 2023-2024 school year, Student made significant progress in writing at the level of services offered in the May 2, 2023 IEP. Student's writing became easier to understand, he produced a better quality of work, he became adept at dictating and writing paragraphs, and organized his thoughts in a coherent way. Student produced less when handwriting, where hand pain and spelling difficulties caused him to intentionally say less than he wanted. However, with 225 minutes per week of group specialized academic instruction, Student produced essays at grade level that demonstrated mastery of grade-level course materials.

Student still required teacher-led pre-writing assistance at the time of the June 28, 2024 IEP, and tools such as graphic organizer, word bank, and sentence stems, but the services and the accommodations offered in the June 28, 2024 IEP allowed him to be involved and make progress in the general education curriculum. Parents and Sebastopol teachers and staff wanted to see Student become a good speller and independent writer despite his neurocognitive disabilities, and that may come true. But under the *Rowley* standard, as affirmed in *Endrew*, Sebastopol offered Student a program of specialized academic instruction, occupational therapy, and counseling, individually designed to enable Student to make progress appropriate in light of his circumstances.

The June 28, 2024 IEP offered 80 minutes monthly in occupational therapy. No occupational therapist testified that this level of service was not appropriate to address Student's dysgraphia, and there was no credible or persuasive evidence that this level of service was not appropriate. Student produced some sloppily handwritten work samples, but there was no credible or persuasive evidence of the conditions under which these samples were created or Student's motivation or need to be neat at that time, or that Student could not produce neat handwriting with his IEP accommodations.

More importantly, Student did not prove that neat handwriting was necessary to Student's educational performance. There was abundant evidence that as Student progressed through middle and high school, he would be required to produce typewritten, not handwritten, work. In these times of dictation and typing on smart phones and iPads, taking photos of or scanning information, paperless transactions, and artificial intelligence, the argument that Student needed additional occupational therapy to improve his handwriting was unpersuasive.

The June 28, 2024 IEP offered 180 minutes per month of individual counseling services. There was no evidence that this level of service was not appropriate to address Student's counseling goal to manage his dyslexia and dysgraphia-related stress.

The June 28, 2024 IEP also offered services during 2024 extended school year. Student did not address the level of extended school year services in his complaint or closing brief, and no persuasive evidence was offered to establish that the extended school year services offered in the June 28, 2024 IEP were not appropriate to prevent regression of Student's literary skills over summer 2024.

Parent preferred that Student attend eight weeks of Lindamood-Bell instruction over summer 2024 to acquire new literacy skills as compensatory education. However, Sebastopol was not required to offer the summer program of Parents' choice. (*Crofts, supra*, 22 F.4th at p. 1056.) More importantly, in resolving the question of whether an educational agency has offered a FAPE, the focus is on the adequacy of the program offered, not the program preferred by parents. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) Sebastopol was not required to offer a program to acquire new academic skills over the 2024 summer break and Student did not prove that the extended school year program offered was inappropriate.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

ISSUE 6d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE JUNE 26 AND 28, 2024 IEPs BY FAILING TO OFFER AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs because Sebastopol did not offer placement with a structured literacy program delivered by trained staff to remediate his dyslexia and dysgraphia.

Sebastopol contends it offered Student a FAPE in the least restrictive environment appropriate for him, that is, a general education classroom with specialized academic instruction, occupational therapy, and counseling in a separate setting.

The June 26, 2024 IEP was not a completed IEP, and so made no offer of placement.

The June 28, 2024 IEP placed Student in the general education classroom with removal only to address his dyslexia and dysgraphia-related needs with specialized academic instruction for one period per day, occupational therapy services for 20 minutes per week, and counseling services for 180 minutes per month. In this placement, Student was in a regular classroom 81 percent of the time, and outside of the regular classroom 19 percent of the time.

In balancing the *Rachel H.* factors, the placement offered in the June 28, 2024 IEP offered the least restrictive environment for Student. Student received educational benefit from placement in Hale's general education classroom, and with his accommodations and related services support for dyslexia and dysgraphia, was learning grade-level material and producing grade-level work. Student received non-educational benefit from participating in classroom activities with neurotypical peers and socializing with his classmates in the classroom and on the playground. Student was a valued participant in Hale's sixth-grade classroom, and Student enjoyed hanging out on the playground with friends and playing games of basketball. Student did not have behaviors that disturbed his peers, and Hale testified that Student was becoming more comfortable with using dictation software for his assignments in her classroom. Sebastopol did not consider cost with regard to placement. Consistent with *Rachel H.*, the least restrictive placement in which to address Student's educational needs, including his reading, writing, and spelling challenges due to dyslexia and dysgraphia, was in the general education classroom with removal only for specialized academic instruction, occupational therapy, and counseling to support his access to the general education curriculum and to make progress on his annual goals.

Student's excellent end of the year report card, scores on statewide testing, progress on goals, and Hale's report that Student was doing well in the sixth-grade classroom, weighed in favor of the June 28, 2024 IEP placement as an appropriate placement for addressing Student's dyslexia and dysgraphia.

As discussed at Issues 6b and 6c, the evidence did not demonstrate that the specialized academic instruction in the Learning Center did not offer a structured literacy program delivered by trained staff to address his dyslexia-and dysgraphia-related needs, and Sebastopol was not required to consider a more restrictive setting in which to provide such a program.

The June 28, 2024 IEP also offered services during 2024 extended school year. Student did not argue in his closing brief that the extended school year 2024 placement was not appropriate to address his dyslexia or dysgraphia, and no persuasive evidence established that the offered placement was not the least restrictive placement appropriate to prevent regression of Student's literary skills over summer 2024.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer appropriate placement to address Student's dyslexia and dysgraphia.

ISSUE 7a: DID SEBASTOPOL DENY STUDENT A FAPE IN THE OCTOBER 1, 2024 IEP BY FAILING TO OFFER AUTISM ELIGIBILITY?

Student contends the October 1, 2024 IEP denied him a FAPE by failing to offer autism eligibility. Sebastopol contends that Student was not eligible for special education under the category of autism because his autism did not adversely affect his educational performance.

2024-2025 SCHOOL YEAR – SEVENTH GRADE

Parents did not consent to the June 28, 2024 IEP. On August 24, 2024, Sebastopol wrote Parents a letter stating if Parents did not consent to the June 28, 2024 IEP, called the June 26, 2024 IEP by Sebastopol, before the beginning of the 2024-2025 school year, Sebastopol would implement the December 7, 2023 IEP to the extent amended and consented to by Parents on May 9, 2024.

Parents could not have consented to partial implementation of the December 7, 2023 IEP prior to June 28, 2024, because the December 7, 2023 IEP was not completed until June 28, 2024.

To put Sebastopol's letter in context, Parents consented to incomplete IEPs, in writing, on January 13, 2024, April 29, 2024, and May 9, 2024, and verbally throughout the development of the June 28, 2024 IEP. IEP team members and service providers did their best to collaborate with Parents on implementation of proposed goals, particularly as they sought to serve Student with updated goals as promptly as possible. The record is replete with instances of Sebastopol and Parent confusion on which goals were to be implemented at which time. As goals were proposed, discussed, and changed, Parents made various written and verbal requests for goal implementation. Student made no implementation claims in his complaint, and in making findings on Student's progress, this Decision makes no findings or conclusions regarding proper goal implementation.

Parents did not consent to the June 28, 2024 IEP before the start of the 2024-2025 school year. Accordingly, Student received special education and related services as stated in the August 24, 2024 prior written notice letter. That is, Student was placed in a general education classroom, with 225 minutes per week of specialized academic

instruction, 80 minutes per month of occupational therapy, and 45 minutes per week of counseling. Five academic goals, three occupational therapy goals, and one counseling goal, plus accommodations and modifications, from the May 9, 2024 IEP were also implemented.

For the 2024-2025 school year, Student returned to Sebastopol in Hale's seventh-grade general education classroom. In Waldorf schools, middle school students stayed with the same teacher for three years, except for specialized classes such as math, handwork, and music. In the Learning Center, Wiebe was now Student's case manager and education specialist.

DR. VANDERVENNET'S PSYCHOEDUCATIONAL ASSESSMENT REPORT

Parents arranged for Dr. VanderVennet to conduct an independent psychoeducational evaluation of Student, funded by Sebastopol, at the beginning of the 2024-2025 school year. As part of the assessment, Dr. VanderVennet observed Student in Hale's classroom and on the playground, and obtained rating scales from Hale and Wiebe on whether Student exhibited characteristics of autism. Dr. VanderVennet did not observe Student in the Learning Center, did not review Student's records for progress on annual goals, or follow through with Hale, Ing, or Wiebe about Student's academic performance in the classroom. Dr. VanderVennet did not speak with Student's new school counselor about Student's mental health or counseling.

Dr. VanderVennet observed Student at school during the first weeks of the 2024-2025 school year. On a classroom break, she observed Student socializing with two peers and transitioning well back to Hale's classroom. Student appeared attentive

during a classroom lesson on using a graphic organizer to write an essay about Joan of Arc, but Student did not participate in the post-lecture discussion and wrote less than his classmates in the graphic organizer. Student was distracted and disengaged for part of the writing process and Hale did not provide scaffolding or prompts for Student to stay on task. Student started typing, but was not typing in the graphic organizer. Towards the end of the class period, Student asked Hale a question, but only wrote the title of his essay and a few words in his graphic organizer.

Dr. VanderVennet conducted psychoeducational testing of Student for a total of nine hours over four days. The results of Dr. VanderVennet's cognitive testing showed Student had average cognition. Deficits in memory and attention indicated Student had the capacity to learn, but would struggle with verbal memory and would benefit from verbal information presented with visuals and other context.

Dr. VanderVennet found Student had a weakness in phonological processing that would impact his reading and spelling development. In particular, Student had poor phoneme awareness, which meant he struggled with tasks that required him to recognize, identify, and manipulate individual sound units within words. Student also had poor orthographic awareness, so he struggled with tasks that required him to recognize, manipulate, and apply knowledge of letter patterns and word forms. Both these processing deficits were consistent with dyslexia and dysgraphia.

Student had significant challenges with sustained attention and executive functioning, the primary neurocognitive impact of his ADHD. Deficits in executive functioning could lead to hasty and unplanned action and distractibility interfering with task completion and learning. It also meant that Student struggled with following multi-step directions, causing him to frequently get lost and confused unless information was

broken into small manageable pieces. Executive functioning affected cognitive flexibility, or task switching, and Student could have difficulty transitioning between activities or trouble responding to social cues or changes in conversation.

In the areas of social emotional functioning, behavior, and mental health, Dr. VanderVennet had Mother and Hale complete rating scales. Hale reported Student had trouble with written assignments without accommodations but was well-liked by his peers and did not have angry outbursts. Mother reported Student had

- sensory preferences,
- challenges with expressive communication,
- difficulty initiating and maintaining friendships,
- significant anxiety,
- emotional outbursts,
- aggressive behaviors, and was
- overwhelmed in social situations.

On the rating scale consistency index, Mother's responses were to be viewed with caution, which caution Dr. VanderVennet dismissed in her report without explanation.

On rating scales for characteristics of autism, Mother reported hyperactivity, impulsivity, and emotional regulation, with elevated scores for peer interactions and very elevated scores for schoolwork and family life. Hale did not report any concerns.

Dr. VanderVennet concluded that Student had autism spectrum disorder, very mild, but nearly met the DSM-5 criteria for oppositional defiant disorder.

Dr. VanderVennet also concluded Student was eligible for special education and related services under the categories of specific learning disability due to impairments in reading and written expression, and other health impairment due to attention and executive functioning deficits. She also found Student eligible under the category of autism. She noted Student had previously been in speech therapy for articulation and had difficulty with social interactions. She noted Student had challenges with communication, narrow interests, and unusual sensory responses to the environment. These findings were apparently based on Mother's responses, as her report did not provide any explanation of where these characteristics of autism were seen in the school setting. Dr. VanderVennet noted that Student's autism was secondary to his specific learning disability and ADHD.

Dr. VanderVennet recommended reading interventions of explicit, systematic instruction in phonemic awareness, phonics, and

- decoding using a multisensory structured literacy program,
- fluency building activities,
- instruction to increase vocabulary and comprehension, and
- access to assistive technology to support reading.

As writing interventions, Dr. VanderVennet recommended instruction in handwriting and typing, and strategies to develop organizational skills, idea generation, and the writing process. She also recommended access to speech-to-text technology and word prediction software, opportunities to verbally express or dictate when writing was a challenge, and the use of a color-coded graphic organizer for writing with focus on how to write a paragraph.

Dr. VanderVennet recommended ADHD supports already offered in Student's IEP as accommodations, such as reduced distractions, scaffolded instruction, checklists, and use of visual aids and checklists as part of organizational and planning strategies. She recommended frequent feedback to maintain motivation and task completion, a schedule because Student lacked his own self-monitoring and executive control, and the use of multiple modalities in instruction.

For Student's autism, Dr. VanderVennet recommended visual schedules, social narratives, and other supports for Student to navigate transitions and social situations. She recommended sensory accommodations such as fidgets, noise-cancelling headphones, or movement breaks, and consideration of a social perspective taking group with peers to learn social skills and generalize them to a larger setting.

Dr. VanderVennet also recommended consideration of an occupational therapy evaluation to determine Student's sensory-based needs and necessary sensory supports.

OCTOBER 1, 2024 IEP

Sebastopol convened an IEP team meeting on October 1, 2024, to review Dr. VanderVennet's psychoeducational assessment report, dated September 10, 2024. Parents attended with their attorney. Sebastopol team members included Sebastopol's attorney and administrators, plus Student's occupational therapist, a speech language pathologist, school counselor Paige Kline, and Wiebe. Sebastopol also arranged for school psychologist Annalise Puentes to be present for the discussion regarding Dr. VanderVennet's report.

As part of the review of present levels of performance, the October 1, 2024 IEP team reviewed Student's final sixth-grade report card with grades of mostly As, some Bs, and one C. Statewide standardized testing results had been received, and Student met state standards in English language arts, and nearly met state standards in math and history.

Dr. VanderVennet presented her report to the October 1, 2024 IEP team. Other than Dr. VanderVennet's finding that Student's autism adversely affected his educational performance, Dr. VanderVennet's assessment findings were generally consistent with those of Sebastopol's three-year assessment documented in the February 2023 report. The only significant area of disagreement was her finding that Student was eligible for special education under the category of autism.

In the June 28, 2024 IEP, Sebastopol already offered goals in the areas of need identified by Dr. VanderVennet and was implementing all her recommendations except the visual schedules, social narratives, and social perspective taking group recommended to address Student's autism.

Dr. VanderVennet stressed to the October 1, 2024 IEP team that Student's executive functioning, or organizational, deficits significantly added to Student's challenges from his attention deficits and learning disabilities in reading and writing. In response, the IEP team proposed to increase Student's specialized academic instruction to include another 225 minutes per week of support in class to be provided by an instructional assistant, for a total of 550 minutes a week of specialized academic instruction. Although the instructional assistant would not be providing new instruction, they would be pushed into Hale's classroom to support Student in organization, focus, attention to tasks, and

reinforcement of learned strategies in reading, writing, and stress management. This push-in support would be provided during the classroom's main lesson, when Student typically needed the most support in preparing for and writing essays, his greatest area of weakness.

The IEP team also proposed a new sensory regulation goal for Student to learn and use sensory strategies to regulate his sensory system to improve attention to task.

AUTISM DID NOT ADVERSELY IMPACT EDUCATIONAL PERFORMANCE

The October 1, 2024 IEP identified Student as eligible for special education and related services under the eligibility categories of specific learning disability and other health impairment. The new information presented by Dr. VanderVennet did not require the October 1, 2024 IEP team to add autism as an eligibility category to Student's IEP.

As discussed at Issue 1a, once Student was found eligible for special education, he was entitled to a FAPE, rather than a specific eligibility category. In addition, the evidence established that in October 2024, Student did not exhibit characteristics of autism in the school setting that adversely affected his educational performance and therefore, Student did not meet the eligibility criteria of autism.

Dr. VanderVennet's finding that Student's educational performance was adversely affected by his autism was unpersuasive, both at the October 1, 2024 IEP team meeting and at hearing.

As discussed at Issue 1a, Dr. VanderVennet relied heavily on Mother's report of Student's communication and social deficits. She also relied heavily on Student's December 2022 medical diagnosis of autism, which itself was based primarily on Mother's report. Dr. VanderVennet did not have Father complete rating scales or interview him besides exchanging pleasantries when Father transported Student to her office. Dr. VanderVennet did not interview Student's school-based counselor, or any of Student's teachers, to explain the dramatic differences in responses from Mother and Hale about Student's exhibited behaviors, even though Mother's responses triggered a cautionary warning against relying on them. Such uninvestigated, one-sided reliance on disputed findings to support her opinions gave Dr. VanderVennet the appearance of bias in favor of Parent's desired outcomes. Her conclusion that Student nearly met the criteria for oppositional defiant disorder seemed particularly extreme in light of Student's reported courteous and easygoing behavior at school.

Credentialed school psychologist Puentes opined persuasively that Dr. VanderVennet's failure to obtain an autism rating scale self-report response from Student left Student's voice out of the assessment, which would be particularly important to a determination of whether Student was trying to hide, or mask, his autism in communications and social interactions with peers at school.

Parents did not provide Dr. VanderVennet with available speech and language reports. Parents provided Dr. VanderVennet with only one available occupational therapy assessment report, which found Student to have age appropriate tactile and proprioceptive abilities. Dr. VanderVennet's report lacked support beyond Mother's statements that Student's verbal and nonverbal communication and social interaction were significantly affected by his autism, and that Student engaged in restricted,

repetitive patterns of behavior, interests, or activities. Lough, Puentes, and other Sebastopol IEP team members commented that Dr. VanderVennet did not discuss any data in her report for finding Student demonstrated symptoms of autism that significantly impacted his ability to participate in school and benefit from education. Her conclusion that Student was eligible for special education under the category of autism based on these findings was unsupported except for self-serving statements by Mother and unpersuasive.

Dr. VanderVennet's willingness to venture opinions outside her field of expertise, concerning Student's pragmatic language skills, sensory needs, and how a literacy skills program should be implemented adversely affected her credibility.

Dr. VanderVennet did not observe Student in the Learning Center, so her opinions regarding the Learning Center's curriculum and how Learning Center teachers were providing literacy instruction to Student were speculative and given little weight. Dr. VanderVennet also did not possess a special education teaching credential and was not sufficiently familiar with the curriculum, programs, and methods for literacy instruction used in the Learning Center to opine persuasively on whether or not those programs were being properly implemented or provided Student with the individualized multisensory reading instruction needed to address Student's dyslexia and dysgraphia.

Dr. VanderVennet admitted she did not do a "deep dive" into Student's records to review or consider Student's progress on goals. Although her extensive testing in areas of reading and writing could provide a snapshot of Student's performance at one point in time, it did not account for the rate of Student's progress with the special education and related services Student had received. As a credentialed school psychologist, Dr. VanderVennet would be expected to know that the IDEA standard is

for an educational agency to offer an IEP reasonably calculated to enable a child to make educational progress appropriate to his circumstances. Without review of Student's progress in the years at issue, her opinions regarding the type or amount of services Student that would comply with this standard are entitled to little to no weight.

Notably, Dr. VanderVennet made several errors in her assessment report. Her first report applied incorrect eligibility criteria, and Sebastopol had to request a revision. Within the assessment report, she repeatedly reported average scores as below average, below average scores as well below average, and identified average scores as cautionary. These reporting errors and choices, although not necessarily significant individually, together gave the appearance of bias on Dr. VanderVennet's part to make Student's scores appear artificially low.

Lastly, Dr. VanderVennet did not provide her opinions on the appropriateness of Student's goals, accommodations, services, or placement at the October 1, 2024 IEP team meeting. Her opinions at hearing on the appropriateness of Student's goals, accommodations, services, or placement not voiced at the October 1, 2024 IEP were given little weight.

The October 1, 2024 Sebastopol IEP team members were reasonably unpersuaded by Dr. VanderVennet's assessment report. The information provided by Dr. VanderVennet did not require Sebastopol to offer autism eligibility in the October 1, 2024 IEP.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the October 1, 2024 IEP by failing to offer autism eligibility.

ISSUE 7b: DID SEBASTOPOL DENY STUDENT A FAPE IN THE OCTOBER 1, 2024 IEP BY FAILING TO OFFER GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE by failing to offer appropriate goals and accommodations for Student's dyslexia and dysgraphia in the October 1, 2024 IEP. Sebastopol contends the goals in the June 28, 2024 IEP already addressed all Student's dyslexia and dysgraphia-related needs, as did the accommodations offered.

As discussed at Issue 6b, the June 28, 2024 IEP offered appropriate goals and accommodations to address Student's dyslexia and dysgraphia. Significantly, Dr. VanderVennet did not recommend new or different goals in her report reviewed at the October 1, 2024 IEP team meeting.

Dr. VanderVennet suggested Student's ADHD-related inattention and distractibility might be reduced with sensory items like fidgets or a seat cushion. On this new information, the October 1, 2024 IEP team discussed and adopted a sensory regulation goal drafted by occupational therapist Bird to increase Student's sustained attention, which had a baseline of five minutes.

The sensory regulation goal called for Student, when provided with a predetermined sensory checklist created with Student, classroom staff and the occupational therapist, and with the teacher providing visual prompting as needed, to select, start, and use a sensory strategy to modulate his sensory system to attend to classroom tasks and activities for 15 to 20 minutes without disruption to self or peers, as collected by teacher data monthly. This goal targeted new information regarding Student's ability to sustain attention that could impact learning, including Student's

challenges from dyslexia and dysgraphia. This goal was based on Student's present levels as reported by Dr. VanderVennet, and was measurable and reasonably attainable within one year.

Dr. VanderVennet recommended accommodations to address Student's dyslexia, including access to audiobooks, text-to-speech, and other assistive technology to support reading, which accommodations were already in the June 28, 2024 IEP. She recommended accommodations to address Student's dysgraphia, including access to word prediction software, speech-to-text, audio books, and opportunities for verbal expression and dictation to circumvent written output challenges, which were already offered in Student's existing June 28, 2024 IEP. The October 1, 2024 IEP team did not adopt Dr. VanderVennet's dysgraphia recommendation for color-coding in the graphic organizer for writing a paragraph. However, Student's IEP already included a graphic organizer as an accommodation, expressly referenced in his writing goal, and not adding color-coding was not a material deviation from Dr. VanderVennet's dysgraphia recommendations.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the October 1, 2024 IEP by failing to offer goals and accommodations relating to dyslexia and dysgraphia.

ISSUE 7c: DID SEBASTOPOL DENY STUDENT A FAPE IN THE OCTOBER 1, 2024 IEP BY FAILING TO OFFER INDIVIDUALIZED MULTISENSORY INSTRUCTION OR DYSLLEXIA AND DYSGRAPHIA SERVICES?

Student contends he was denied a FAPE because the October 1, 2024 IEP did not offer systematic, evidence-based instruction to address Student's dyslexia and

dysgraphia. He contends Sebastopol staff were unqualified to provide systematic evidence-based instruction, and that the specialized academic instruction minutes offered did not reflect the intensity or fidelity of instruction required for Student's significant processing deficits as identified by Dr. VanderVennet.

Sebastopol contends the October 1, 2024 IEP already offered evidence-based literacy interventions reasonably calculated to enable Student to make progress on the annual goals that addressed Student's dyslexia and dysgraphia.

As discussed at Issue 6c, the June 28, 2024 IEP offered Student appropriate individualized multisensory reading instruction and dyslexia and dysgraphia services. The October 1, 2024 IEP team made three additions to the services offered in that IEP, based on information received in Dr. VanderVennet's assessment presentation. These included an additional 225 minutes of specialized academic instruction as push-in support in the general education classroom, a 10-minute per week increase in occupational therapy to address the new sensory goal to increase attention, and a 45-minute increase in consultation time between the occupational therapist and Student's teachers and instructional assistant to support occupational therapy goals.

The newly added occupational therapy services and consultation supported the sensory goal to regulate Student's attention which had an impact on his challenges with reading and writing. No persuasive evidence was presented that the occupational therapy services and consultation offered in the October 1, 2024 IEP were not reasonably calculated to enable Student to make appropriate progress on the new sensory regulation goal.

In addition, the significant increase in weekly specialized academic instruction addressed Student's dyslexia and dysgraphia, as well as his attention and executive functioning deficits. Dr. VanderVennet explained at hearing that push-in services provided real-time support for in-class assignments, including working on writing skills, ensuring Student's dyslexia and dysgraphia accommodations were in place, and walking Student through the writing process.

Push-in services were offered to give Student support in writing and notetaking, as well as keeping assignments organized and turned in. An instructional assistant would repeat and reinforce lessons and skills taught in the Learning Center for in-class assignments, which would not only provide real-time skill acquisition, but would help Student keep up with the pace of learning and feel more confident and secure in his reading and writing abilities. Wiebe was concerned that in October 2024 Student was using accommodations as a way to avoid work, and a push-in assistant from the Learning Center would remind and motivate him to use his skill set and resources to be more prepared for assignments and complete them independently.

These services were designed to enable Student to be involved, and to make progress in the general education curriculum. They supported Student's literacy goals in real time and were individually designed to enable Student to make appropriate progress on his goals despite his significant specific learning disabilities in reading and written expression.

Student argues his below standard Spring 2024 statewide standardized test score in the essay writing subpart establishes he did not make progress in writing over the 2023-2024 school year. However, Ing, Wiebe, Lewis, and Hale testified knowledgeably and credibly that statewide testing provided a snapshot in time of Student's performance

and was not as reliable an indicator of Student's actual performance as regular informal assessments and teacher data collected throughout the school year. These assessments and data showed Student made good progress on writing skills in sixth grade. In addition, Ing testified persuasively that Student took the essay writing portion of the statewide testing without teacher-led pre-writing activities and other accommodations that enabled Student to write competently and creatively despite his attention deficits and dysgraphia.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the October 1, 2024 IEP by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

ISSUE 7d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE OCTOBER 1, 2024 IEP BY FAILING TO OFFER AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the October 1, 2024 IEP because Sebastopol did not offer placement with a structured literacy program delivered by trained staff to remediate his dyslexia and dysgraphia. Sebastopol contends it offered Student a FAPE in the least restrictive environment.

As discussed at Issue 6d, Sebastopol offered an appropriate placement to address Student's dyslexia and dysgraphia in the June 28, 2024 IEP.

There was no credible or persuasive evidence that in October 2024 Student needed a smaller setting with a more intensive dyslexia and dysgraphia program to make appropriate progress. Student was keeping pace with the general education curriculum with only 19 percent of his school day in special education at the Learning

Center, occupational therapy, and counseling. The small increase in occupational therapy, although sufficient to support the new sensory regulation goal, did not change the percentage of time that Student was outside of special education. The increase in consultation minutes between the occupational therapist and Student's teachers, while also supporting the sensory regulation goal, did not affect Student's time inside of the general education classroom.

The additional weekly specialized academic instruction minutes did not impact Student's time inside the general education classroom. The instructional assistant, one of two supervised by Wiebe in the Learning Center during the 2024-2025 school year, would provide services in Hale's classroom during the main lesson, where Student needed the most help with reading and writing and was most impacted by his dyslexia and dysgraphia. The instructional assistant would not only help Student with focus and attention to task in support of the sensory regulation goal, but repeat and reinforce strategies taught by Wiebe and track Student's progress in support of Student's academic goals. Ing and Wiebe testified persuasively that the additional 225 weekly minutes of individual push-in specialized academic instruction did not unnecessarily remove Student from the general education classroom, maintaining an appropriate placement in the least restrictive environment. Student did not need a smaller setting to appropriately address his dyslexia and dysgraphia.

Sebastopol was required to offer Student the least restrictive setting appropriate. It met that standard by offering placement in general education with removal from that setting only as determined appropriate by the October 1, 2024 IEP team for Student to make progress on his goals.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the October 1, 2024 IEP by failing to offer an appropriate placement to address Student's dyslexia and dysgraphia.

ISSUE 8a: DID SEBASTOPOL DENY STUDENT A FAPE IN THE DECEMBER 9, 2024 IEP BY FAILING TO OFFER AUTISM ELIGIBILITY?

Student contends the December 9, 2024 IEP denied him a FAPE by failing to offer autism eligibility. Sebastopol contends that Student was not eligible for special education under the category of autism because his autism did not adversely affect his educational performance.

Just over one month after the October 1, 2024 IEP team meeting, on November 4, 2024, Parents consented to implementation of the June 28, 2024 IEP as amended on October 1, 2024. Parents attached a letter to the IEP consent page stating that Dr. VanderVennet found Student had average intellectual abilities and therefore Student should be performing at grade level regardless of his disabilities. Parents felt that Student was performing far below grade level in reading and writing, and his progress was stagnant, and for those reasons the October 1, 2024 IEP did not offer a FAPE.

In November 2024, Wiebe was on medical leave for a few weeks. In the interim, Director of Student's Services Lewis, who held multiple special education teaching credentials, supervised the Learning Center assistants to handle Wiebe's caseload.

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On Student's fall 2024 report card, Student earned As and Bs, with one C. The C was in chemistry, and Student was graded down in part for failing to turn in homework. On effort, Student earned high scores of proficient and mastery, in

- participation,
- punctuality,
- preparedness,
- work habits,
- peer interactions,
- cooperative group tasks,
- cooperation with teachers, and
- collaborative discussions.

He earned mid-range scores for independence, organizing his working folder, timeliness of submitting assignments, and speech exercises, including memorizing and reciting poetry with proper diction and expression. Student earned a low score of needs attention, in workspace organization.

DECEMBER 9, 2024 IEP

Sebastopol convened Student's one-year review IEP on December 9, 2024. Parents, Sebastopol administrators, Hale, Wiebe, Lewis, school counselor Kline, and occupational therapist Bird attended. Attorneys for both Student and Sebastopol also attended.

Parents were concerned that Student was losing motivation for school. Student refused to speak about anything school related to Mother, and it was a daily struggle for Student to keep up with assignments at home. Father told the IEP team he did not see any progress in reading.

The IEP team reviewed present levels of performance. Student's spring 2024 standardized statewide testing scores met standards in English language arts, with above standard reading but below standard essay writing. On district-wide literacy testing in winter 2024, Student scored on the college pathway, the highest level, in untimed tests of comprehension, vocabulary, grammar, and morphology. Student scored with some risk, just below the highest category, on timed tests of word identification, spelling, vocabulary, and morphology.

Hale reported to the IEP team that Student participated in class discussions and recently received 100 percent on a chemistry test. However, Student struggled to complete work independently and often did not turn in assignments. Student did well with the writing process when guided through it, but he was not completing assignments and earned lower grades because of that. Student was in honors orchestra and enjoyed playing the upright bass.

Wiebe reported Student was reading and comprehending grade-level material and content. Student could produce high-quality paragraphs but needed guidance to enhance his writing quality. Wiebe noticed that Student had recently become nonchalant about learning and developed a hands-off approach to his education. School counselor Kline reported that although Student could identify coping strategies for stress management, he was reporting to Kline he did not need to use them because he was not feeling much stress in seventh grade with his accommodations.

Student had been working on most of his June 28, 2024 goals since May 9, 2024. Although it had been less than a year, Student met all of his June 28, 2024 annual academic goals, in

- fluency,
- comprehension,
- writing,
- executive functioning, and
- spelling homonyms.

He did not meet his counseling goal to identify and use stress management strategies in real time but had made progress on identifying stressors and coping strategies.

Student met his occupational therapy goal of independently demonstrating hand strength exercises and reported less pain when writing. Student did not meet his typing goal to copy near-point sentences at 20 words per minute, but increased his typing speed to 16 words per minute on typing exercises. Student's typing speed slowed to seven to eight words per minute when copying sentences, in part due to lost focus and inattention, requiring regular prompting. On his October 1, 2024 sensory regulation goal, Student reported fidgets, and a seat cushion helped him maintain attention, but he disliked drawing peer attention by using them.

At hearing, Student produced writing samples from fall 2024 with well-written multi-paragraph essays on Joan of Arc and garbage recycling. Parents testified they did not see Student produce similar quality work at home, but Ing, Wiebe, and Hale testified credibly that the samples were typical of Student's work with teacher-led pre-writing activities and accommodations.

AUTISM DID NOT ADVERSELY AFFECT EDUCATIONAL PERFORMANCE

The December 9, 2024 IEP identified Student as eligible for special education and related services under the categories of specific learning disability due to discrepancies between Student's cognitive ability and his reading and writing achievement. It also found Student eligible under the category of other health impairment due to ADHD-related deficits. The IEP noted on the front page that Student had a diagnosis of autism.

The evidence established that in December 2024, Student did not exhibit characteristics of autism in the school setting that adversely affected his educational performance and therefore, Student did not meet the eligibility criteria of autism.

Even Dr. VanderVennet opined that Student's educational performance was impacted primarily by his neurocognitive developmental disabilities in attention and his specific learning disabilities in reading and written expression. The sensory regulation goal developed by the October 1, 2024 IEP team addressed Student's attention deficits, using common strategies to provide sensory input to focus attention, and did not demonstrate Student had unusual responses to sensory stimuli or other significant characteristics of autism adversely affecting his educational performance.

By December 9, 2024, Student had developed a nonchalant attitude towards school and homework expectations, and appeared to be relying on accommodations, rather than learned coping strategies, to reduce stress. However, neither of these constituted significant deficits in verbal and nonverbal communication or social interaction that adversely affected Student's educational performance. There was no

evidence that, in December 2024, Student engaged in repetitive activities, stereotypical movements, resistance to change, unusual responses to sensory experiences, or other characteristics of autism associated with the eligibility criteria for autism.

In December 2024, Student was participating in class discussions, producing grade-level work albeit with dyslexia and dysgraphia-related struggles, and earning good grades. He was not exhibiting characteristics of autism that adversely affected his educational performance. Accordingly, Sebastopol was not required to find him eligible for special education and related services under the eligibility category of autism.

Student did not prove by a preponderance of the evidence that Sebastopol denied Student a FAPE in the December 9, 2024 IEP by failing to offer autism eligibility.

ISSUE 8b: DID SEBASTOPOL DENY STUDENT A FAPE IN THE DECEMBER 9, 2024 IEP BY FAILING TO OFFER GOALS OR ACCOMMODATIONS RELATING TO DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the December 9, 2024 IEP by failing to offer goals to address his phonological and orthographic deficits as identified by Dr. VanderVennet. He also contends his spelling was years below grade level, and he was not an independent writer, warranting more ambitious goals. Sebastopol contends the December 9, 2024 goals addressed all Student's dyslexia and dysgraphia-related needs, as did the accommodations offered.

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After reviewing Student's present levels of academic achievement and functional performance, the December 9, 2024 IEP team identified Student's areas of need as writing development and writing organization, work production, orthographic awareness, self-management, and occupational therapy.

Student had met all his June 28, 2024 literacy goals, and was reading with fluency and comprehending at grade level. Therefore, the December 9, 2024 IEP team decided to focus on Student's literacy needs in written expression, particularly in light of Student's continued difficulty producing written work independently, even if it was of good quality when produced. The IEP team also focused on Student's attention needs, which were clearly having a stronger impact on Student's writing organization and composition as grade-level work became more complex. The December 9, 2024 IEP team developed four new annual academic goals.

The first goal addressed Student's writing development and organization. As a baseline, Student earned a score of nine of 16 on the Learning Center paragraph rubric, which scored Student in the five areas of

- introductory and concluding sentences,
- organization,
- relevance of supporting information,
- punctuation, and
- spelling.

The rubric for multiple paragraphs added scores in three areas for introductory and concluding paragraphs, transitions between paragraphs, and editing. This goal required Student to produce a clear and coherent paragraph or multiple paragraphs in which the

development, organization, and style were appropriate to task and purpose, while using correct conventions of writing and scoring a 12 of 16 on the Learning Center paragraph rubric. The goal would be measured by Student work samples and teacher-made rubrics of work samples and curriculum-based assessments in two of three opportunities. Lewis drafted the goal to address seventh-grade writing standards.

Student contends that using the Learning Center rubric score did not provide a meaningful measure of progress. While it is correct that the Learning Center paragraph rubric gave one score, rather than a score broken down by category, it provided an aggregate number that indicated progress. Wiebe and Lewis testified persuasively that the Learning Center rubric score provided a measure of progress that would indicate Student's growth through various stages of multi-paragraph writing. Further, whether Student achieved the targeted score on the rubric would be measured by work samples, the rubric with its 16 categories, and curriculum-based assessments, each of which could provide further break down of the five to eight categories in the rubric. The IDEA does not require goals to be measured in a specific way, which is left to the discretion of the educational agency. (*Capistrano, supra*, 21 F.4th at p. 1134.) Sebastopol was not required to not adopt the form of data collection preferred by Parents and did not need to identify eight discreet categories to be measured within the goal itself. (See *id.*, at p. 1135.)

Alternatively, the December 9, 2024 IEP required eight goals to determine if Student was producing well written and edited paragraphs and multi-paragraph essays. An IEP is not required to contain every goal from which a student might benefit. (*Capistrano, supra*, 21 F.4th at p. 133; *E. R. v. Spring Branch Indep. Sch. Dist.*, (5th Cir. 2018) 909 F.3d 754, 768 (per curiam) [not requiring "excessive goals"].)

The second goal addressed work production. During fall of the 2024-2025 school year, Student required teacher reminders to turn in assignments and was turning them in independently five percent of the time. This goal called for Student, when given all assignments and test dates, to independently turn in all completed assignments by the designated date 70 percent of the time as measured by teacher records. The goal was intended to help Student develop more independence and learn that he was capable.

The third goal focused on orthographic awareness, or understanding words and parts of words. Student understood the meaning of grade-level vocabulary with 86 percent accuracy with teacher assistance. This goal required Student, when given a list of grade-level vocabulary words from the core curriculum, to know the meaning of the words using tools independently, including a glossary, dictionary or thesaurus, and develop an ongoing word bank with 95 percent accuracy in three of four trials as measured by teacher records and Student work. This goal directly addressed Student's orthographic processing deficits to help him with the spelling and meaning of words. Lewis testified persuasively that this goal would also teach Student to use vocabulary tools that could support his writing in school and into adulthood.

The fourth goal targeted Student's struggles to initiate work independently. Student required four prompts in five minutes and staff assistance to engage with and complete tasks. This goal required Student, after clarifying directions provided by a teacher, to sustain independent on-task work for 15 minutes with no more than two teacher prompts in three of four opportunities as measured by teacher observation and charting. This goal was intended to support independent work for longer periods of time.

Lewis drafted the academic goals, and testified persuasively that these goals addressed Student's academic needs relating to his dyslexia and dysgraphia. The IEP team wanted Student to be more independent, and these academic goals were intended to foster independent work and boost Student's confidence in his own abilities. His teachers saw a capable, grade-level student and the December 9, 2024 IEP team wanted Student to see that in himself. Student had significant lifelong neurocognitive disabilities, and the IEP team wanted Student not just to use literacy tools, but to find the tools that worked best for him.

Wiebe, Lewis, and Puentes did not disagree with Dr. VanderVennet's finding that Student had phonological processing deficits, but testified that Dr. VanderVennet's scores in decoding and reading fluency did not correspond with Student's regular phonics screenings or other data taken in the Learning Center. Ing and Wiebe both testified credibly and persuasively that by December 2024, Student was effective at decoding, was a fluent reader, and had good comprehension of grade-level text. Student had scored above standard on the reading subpart of spring 2024 statewide testing. Wiebe, Lewis, and Puentes testified persuasively that Student was accessing grade-level materials, and Student did not need a goal to address phonological processing.

The December 9, 2024 IEP team retained Student's stress management goal with revisions. Student could already identify and apply basic stress management techniques in the one-to-one counseling setting. Student had chosen 20 stress management techniques that spanned across home and school settings to establish a holistic stress management plan. This goal required Student to demonstrate his use of stress management techniques in real-time in the classroom.

The stress management goal called for Student, in a one-to-one counseling setting, to discuss and strategize how he felt while independently implementing his personalized strategies from his stress management plan to manage his own stress levels while spontaneously using one of those strategies in a school setting two times per week for three consecutive weeks as determined by counselor-made activities and student self-reporting. This goal appropriately doubled in number of times Student in the June 28, 2024 counseling goal was expected to utilize learned stress management techniques per week. The new goal was reasonably calculated to minimize anxiety that Student faced with reading and writing tasks and to bolster self-confidence in his ability to overcome dyslexia and dysgraphia-related challenges.

The December 9, 2024 IEP team continued Student's June 28, 2024 occupational therapy goals with revisions. Student could attend for five to 10 minutes before losing focus, and benefited from increased movement by use of adaptive seating, frequent movement breaks, and fidgets. The sensory regulation goal called for Student, when provided with a predetermined list of sensory strategies created with Student, classroom staff, and the occupational therapist, and when prompted by his teacher, to select an appropriate tool and start and use a strategy to modulate his sensory system to attend to classroom tasks and activities for 15 to 20 minutes, as measured by teacher data collection. This goal was also designed to teach Student to independently modulate his environment to help him focus and sustain attention longer, which supported reading and writing tasks.

To increase Student's typing speed from 16 words per minute, and slower when copying, the IEP team developed a written output goal for Student to increase his typing speed to 20 to 30 words per minute, and use visualizing and verbalizing techniques to copy at a rate of 15 words per minute while typing in two of three opportunities as

measured by occupational therapist and special education teacher data and observations. This goal was reasonably calculated to bypass Student's difficulty with physical handwriting to complete assignments. Typing assignments on his Chromebook was not only faster than handwriting for Student, it gave him access to assistive technology such as word prediction, spell check, and grammar check, allowing Student to edit his work more efficiently.

Each of these goals was developed in an area of identified need, based on Student's present levels of academic achievement and functional performance, and was measurable, and reasonably attainable within one year. They appropriately addressed Student's needs resulting from his dyslexia and dysgraphia.

As discussed at Issue 7b, Student's June 28, 2024 IEP, as amended October 1, 2024, contained all the accommodations recommended by Dr. VanderVennet for dyslexia and dysgraphia, and those accommodations were retained in the December 9, 2024 IEP. The totality of the evidence demonstrated that the December 9, 2024 IEP offered appropriate accommodations relating to dyslexia and dysgraphia.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the December 9, 2024 IEP by failing to offer goals and accommodations relating to dyslexia and dysgraphia.

ISSUE 8c: DID SEBASTOPOL DENY STUDENT A FAPE IN THE DECEMBER 9, 2024 IEP BY FAILING TO OFFER INDIVIDUALIZED MULTISENSORY READING INSTRUCTION OR DYSLLEXIA AND DYSGRAPHIA SERVICES?

Student contends he was denied a FAPE because the December 9, 2024 IEP did not offer systematic, evidence-based instruction to address Student's dyslexia and

dysgraphia. He contends Sebastopol staff were unqualified to provide systematic evidence-based instruction, and that the specialized academic instruction minutes offered did not reflect the intensity or fidelity of instruction required for Student's significant processing deficits.

Sebastopol contends it offered evidence-based literacy interventions reasonably calculated to enable Student to make progress on the annual goals that addressed Student's dyslexia and dysgraphia.

After developing Student's annual goals, the December 9, 2024 IEP team discussed services to support progress on those goals. The December 9, 2024 IEP offered group specialized academic instruction at 550 minutes weekly. The IEP designated that services would be provided 90 minutes per day, five days per week. Of the total 550 minutes, 225 minutes would support writing development and organization, work production, orthographic awareness and self-management in a group in the Learning Center. The remaining 225 minutes would be provided individually in the general education classroom by an instructional assistant.

On November 4, 2024, Parents consented to the October 1, 2024 IEP amendment offer of 550 minutes of specialized academic instruction with a push-in model for 225 minutes, so the service had only been in place for a few weeks at the time of the December 9, 2024 IEP team meeting. The December 9, 2024 IEP team knew Student had the ability to generalize academic skills learned in the Learning Center to Hale's general education classroom. The push-in services were intended to reinforce those lessons by reminding Student to focus, edit his work, and use the skills he had during the main lesson.

The December 9, 2024 IEP offered 150 minutes of occupational therapy per month with four 30-minute sessions provided as pull-out or push-in, as needed to support Student. An additional 30 minutes per month would be consultation between the occupational therapist and teachers and staff to support Student's occupational therapy goals in the classroom.

Individual counseling services were offered in the December 9, 2024 IEP at 45 minutes per week.

Lewis, Wiebe, and Ing each opined that the type and amount of special education and related services offered were reasonably calculated to enable Student to make appropriate progress on his goals addressing Student's dyslexia and dysgraphia-related needs.

Lewis, Wiebe, and Ing testified credibly and knowledgably that the Learning Center continued to offer Student individualized multisensory reading instruction for Student's literacy needs arising from his dyslexia and dysgraphia, as described in detail at Issues 1b and 2b. All three were credentialed special education teachers with significant education, training, and experience in teaching students with mild to moderate disabilities, specifically students with dyslexia and dysgraphia. They were familiar with Student and his academic needs, and in light of their qualifications, their opinions that the December 9, 2024 IEP offered Student individualized multisensory reading instruction to address Student's dyslexia and dysgraphia significantly outweighed the opinion of Dr. VanderVennet, who was neither a credentialed special education teacher or familiar with the Learning Center instruction.

Student submitted scores from Lindamood-Bell's May 15, 2025 reevaluation and spring 2025 statewide testing as evidence that Student did not make progress in literacy skills on the services offered in the December 9, 2024 IEP. However, an IEP is evaluated in light of information available to the IEP team at the time it was developed and is not judged in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149.) This information was not available to the December 9, 2024 IEP team and is not persuasive evidence that the services offered in the December 9, 2024 IEP were not reasonably calculated by Student's IEP team to enable Student to make progress appropriate to his circumstance in accordance with *Rowley* and *Endrew* at the time the offer was made.

Student failed to prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the December 9, 2024 IEP by failing to offer appropriate individualized multisensory reading instruction or dyslexia and dysgraphia services.

ISSUE 8d: DID SEBASTOPOL DENY STUDENT A FAPE IN THE DECEMBER 9, 2024 IEP BY FAILING TO OFFER AN APPROPRIATE PLACEMENT TO ADDRESS STUDENT'S DYSLEXIA AND DYSGRAPHIA?

Student contends Sebastopol denied him a FAPE in the December 9, 2024 IEP by failing to offer placement with a structured literacy program delivered by trained staff to remediate his dyslexia and dysgraphia. Student contends his independent writing remained years below grade level and required a more intensive program than the Learning Center minutes with push-in instructional assistant support. Sebastopol contends it offered Student a FAPE in the least restrictive environment.

The December 9, 2024 IEP placed Student in the general education classroom with removal only to address his attention and dyslexia and dysgraphia-related needs with group specialized academic instruction for 225 minutes per week, individual occupational therapy services for 30 minutes per week, and counseling services for 45 minutes per week. In this placement, Student was in a regular classroom 80 percent of the time, and outside of the regular classroom 20 percent of the time.

In balancing the *Rachel H.* factors, the program offered in the December 9, 2024 IEP was the least restrictive environment for Student. Student received educational benefit from placement in Hale's general education classroom, and with his accommodations and related services support for attention, dyslexia, and dysgraphia, was learning grade-level course material and producing grade-level work. Student received non-educational benefit from participating in classroom activities with neurotypical peers and socializing with his classmates in the classroom and on the playground. Student was a valued participant in Hale's seventh-grade classroom, and Student enjoyed hanging out on the playground with friends, particularly playing chess. Student did not have any behaviors that disturbed his peers, although Student was somewhat self-conscious when using his fidgets and adapted chair. Cost was not a factor in the placement offered.

In December 2024, Student was writing at grade level with the supplementary aids and services in his IEP. The IDEA permits a more restrictive placement only if education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (*D.R., supra*, 56 F.4th at p. 646.)

Here, consistent with *Rachel H.* and *D.R.*, least restrictive placement in which to address his dyslexia and dysgraphia-related needs was in the general education classroom with removal only for specialized academic instruction, occupational therapy, and counseling to support his access to the general education curriculum and progress on his annual goals.

Student did not prove by a preponderance of the evidence that Sebastopol denied him a FAPE in the December 9, 2024 IEP by failing to offer an appropriate placement to address Student's dyslexia and dysgraphia.

ISSUE 9a: DID SEBASTOPOL DENY STUDENT A FAPE FROM APRIL 29, 2023, THROUGH APRIL 29, 2025, BY SIGNIFICANTLY IMPEDING PARENT'S ABILITY TO PARTICIPATE IN THE IEP DECISIONMAKING PROCESS BY FAILING TO MEANINGFULLY CONSIDER PARENTS' INPUT REGARDING THE NEED FOR AUTISM SUPPORT?

Student contends he was denied a FAPE because Sebastopol IEP team members, from the May 2, 2023 IEP through the December 9, 2024 IEP, failed to meaningfully consider Parents' input regarding the need for autism support. Sebastopol contends that Parents' input was meaningfully considered.

A parent has meaningfully participated in the development of an IEP when the parent is informed of the child's problems, attends the IEP meeting, expresses disagreement regarding the IEP team's conclusions, and requests revisions in the IEP. (*N.L. ex re. Mrs. C. v. Knox County Schools* (6th Cir. 2003) 315 F.3d 688, 693.)

Here, throughout all IEPs at issue, Parents were informed of Student's challenges, attended the IEP team meetings, expressed their concerns and disagreement with many IEP team conclusions, and requested revisions in the IEP. Parents asked questions in extreme detail, demanded additional baselines to inform goal drafts, and proposed new and revised goals.

Sebastopol took Parents' concerns regarding autism supports very seriously. At Parents' request, Lough specifically included autism rating scales in his February 2023 psychoeducational assessment of Student. The fact that Lough did not find that Student exhibited characteristics of autism in the school setting that adversely affected his educational performance, and the May 2, 2023 IEP team did not find him eligible for special education under the category of autism, does not mean that the IEP team did not consider Parents' input.

At Parent's request in the May 2, 2023 IEP team meeting, Lough updated his psychoeducational assessment by having three additional teachers complete autism rating scales. Again, the fact that Lough did not find that Student met the criteria for special education under the category of autism, and the September 21, 2023 IEP team did not find Student eligible for special education under the category of autism, does not establish that Sebastopol did not meaningfully consider Parents' input.

In the May 2, 2023 IEP, and all IEPs through the December 9, 2024 IEP, Sebastopol noted Student's diagnosis of autism on the front page of the IEP. The IEP teams heard Parents' concerns that Student did not have enough friends, was acting out at Mother's house, or liked to rub his clothing, and discussed those concerns in determining Student's eligibility during development of the December 7, 2022, December 7, 2023, and December 9, 2024 IEPs. These actions demonstrated that Sebastopol meaningfully

considered Parents' concerns regarding Students' autism and the need for autism support. However, as found at Issues 1a, 2a, 3a, 4a, 5a, 6a, 7a, and 8a, the evidence did not establish that Student's autism adversely affected his educational performance or that Sebastopol erred in not offering him eligibility under the category of autism.

Student did not prove by a preponderance of the evidence that Sebastopol denied it a FAPE from April 29, 2023, through April 29, 2025, by significantly impeding Parent's ability to participate in the IEP decisionmaking process by failing to meaningfully consider Parents' input regarding the need for autism support.

ISSUE 9b: DID SEBASTOPOL DENY STUDENT A FAPE FROM APRIL 29, 2023, THROUGH APRIL 29, 2025, BY SIGNIFICANTLY IMPEDING PARENT'S ABILITY TO PARTICIPATE IN THE IEP DECISIONMAKING PROCESS BY FAILING TO MEANINGFULLY CONSIDER PARENTS' CONCERN THAT STUDENT DID NOT MAKE MEANINGFUL PROGRESS IN THE AREA OF ACADEMICS?

Student contends Sebastopol denied him a FAPE from April 29, 2023, through April 29, 2025, by not meaningfully considering Parents' concerns that Student did not make meaningful academic progress. Sebastopol contends that it meaningfully considered all academic concerns raised by Parents.

The evidence did not establish that Sebastopol's IEP team members, from the May 2, 2023 IEP through the December 9, 2024 IEP, failed to meaningfully consider Parents' concerns for Student's academic progress. Parents were active participants in the development of all Student's IEPs, and multiple IEP team meetings were convened and reconvened to discuss Parents' concerns and answer Parents' questions. The May 2, 2023, and June 28, 2024 IEPs were completed over many hours of IEP team meetings,

giving Parents unlimited opportunity to have input in the IEP decisionmaking process. A few examples of changes to goals and accommodations addressing Student's academics made by Sebastopol at Parents' request include:

- Increasing the grade level from sixth to seventh grade of the test in the proposed reading comprehension goal at the January 31, 2024 IEP team meeting,
- Increasing the words per minute and accuracy in the proposed reading fluency goal at the February 29, 2024 IEP team meeting,
- Eliminating multiple-choice questions from use in measurement of the proposed reading comprehension goal at the May 29, 2024 IEP team meeting, and
- Adding the accommodation for Student to use alternate ways of communicating learned material at the March 14, 2024 IEP team meeting.

As with Parents' concerns regarding autism supports, the fact that Sebastopol IEP team members did not agree with Parents' position that Student did not make meaningful progress in the area of academics, did not establish that Parents' academic concerns were not meaningfully considered. They were.

Student did not prove by a preponderance of the evidence that Sebastopol denied it a FAPE from April 29, 2023, through April 29, 2025, by significantly impeding Parent's ability to participate in the IEP decisionmaking process by failing to meaningfully consider Parents' concern that Student did not make meaningful progress in the area of academics.

ISSUE 9c: DID SEBASTOPOL DENY STUDENT A FAPE FROM APRIL 29, 2023, THROUGH APRIL 29, 2025, BY SIGNIFICANTLY IMPEDING PARENT'S ABILITY TO PARTICIPATE IN THE IEP DECISIONMAKING PROCESS BY FAILING TO MEANINGFULLY CONSIDER THE FINDINGS AND RECOMMENDATIONS OF PARENTS' EDUCATIONAL EVALUATION ASSESSOR AT THE OCTOBER 1, 2024 IEP TEAM MEETING?

Student contends Sebastopol denied him a FAPE by failing to meaningfully consider Dr. VanderVennet's psychoeducational assessment findings and recommendations at the October 1, 2024 IEP team meeting. Sebastopol contends Dr. VanderVennet's report was meaningfully considered.

As discussed at Issue 1a and 7a, Dr. VanderVennet's assessment findings that Student met the criteria for autism eligibility were unsupported and reasonably determined to be unreliable by the October 1, 2024 IEP team. The fact that the October 1, 2024 IEP team did not adopt Dr. VanderVennet's conclusion and find Student eligible for special education and related services under the category of autism did not establish that Sebastopol failed to meaningfully consider her assessment report results or opinions.

As discussed at Issue 7b, Dr. VanderVennet did not make any goal recommendations at the October 1, 2024 IEP team meeting. The accommodations she recommended had all been included in Student's June 28, 2024 IEP, except for social skills recommendations, which the IEP team justifiably declined to add to the IEP as discussed at Issue 7c.

Dr. VanderVennet did not make any recommendations of services beyond a social skills group, and testified that she did not make recommendations regarding the minutes or frequency of services provided during the IEP team discussions as she did not see that as her role. In circumstances where Dr. VanderVennet did not make goal and program recommendations, Sebastopol IEP team members cannot be faulted for not taking those recommendations into account.

Sebastopol fully considered Dr. VanderVennet's assessment findings and recommendations, and engaged in a meaningful discussion regarding Student's needs at the October 1, 2024 IEP team meeting.

Student did not prove by a preponderance of the evidence that Sebastopol denied it a FAPE from April 29, 2023, through April 29, 2025, by significantly impeding Parent's ability to participate in the IEP decisionmaking process by failing to meaningfully consider the findings and recommendations of Parents' educational evaluation assessor at the October 1, 2024 IEP team meeting.

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 1a:

Sebastopol did not deny Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer autism eligibility.

Sebastopol prevailed on Issue 1a.

ISSUE 1b:

Sebastopol did not deny Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 1b.

ISSUE 1c:

Sebastopol did not deny Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 1c.

ISSUE 1d:

Sebastopol did not deny Student a FAPE in the May 2 and May 15, 2023 IEPs by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 1d.

ISSUE 2a:

Sebastopol did not deny Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer autism eligibility.

Sebastopol prevailed on Issue 2a.

ISSUE 2b:

Sebastopol did not deny Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 2b.

ISSUE 2c:

Sebastopol did not deny Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 2c.

ISSUE 2d:

Sebastopol did not deny Student a FAPE in the July 14 and September 21, 2023 IEPs by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 2d.

ISSUE 3a:

Sebastopol did not deny Student a FAPE in the December 7, 2023 IEP by failing to offer autism eligibility.

Sebastopol prevailed on Issue 3a.

ISSUE 3b:

Sebastopol did not deny Student a FAPE in the December 7, 2023 IEP by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 3b.

ISSUE 3c:

Sebastopol did not deny Student a FAPE in the December 7, 2023 IEP by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 3c.

ISSUE 3d:

Sebastopol did not deny Student a FAPE in the December 7, 2023 IEP by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 3d.

ISSUE 4a:

Sebastopol did not deny Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer autism eligibility.

Sebastopol prevailed on Issue 4a.

ISSUE 4b:

Sebastopol did not deny Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 4b.

ISSUE 4c:

Sebastopol did not deny Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 4c.

ISSUE 4d:

Sebastopol did not deny Student a FAPE in the January 31, February 29, and March 14, 2024 IEPs by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 4d.

ISSUE 5a:

Sebastopol did not deny Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer autism eligibility.

Sebastopol prevailed on Issue 5a.

ISSUE 5b:

Sebastopol did not deny Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 5b.

ISSUE 5c:

Sebastopol did not deny Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 5c.

ISSUE 5d:

Sebastopol did not deny Student a FAPE in the May 9, May 29, and June 3, 2024 IEPs by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 5d.

ISSUE 6a:

Sebastopol did not deny Student a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer autism eligibility.

Sebastopol prevailed on Issue 6a.

ISSUE 6b:

Sebastopol did not deny Student a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 6b.

ISSUE 6c:

Sebastopol did not deny Student a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer individualized multisensory reading instruction or dyslexia and dysgraphia services.

Sebastopol prevailed on Issue 6c.

ISSUE 6d:

Sebastopol did not deny Student a FAPE in the June 26 and June 28, 2024 IEPs by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 6d.

ISSUE 7a:

Sebastopol did not deny Student a FAPE in the October 1, 2024 IEP by failing to offer autism eligibility.

Sebastopol prevailed on Issue 7a.

ISSUE 7b:

Sebastopol did not deny Student a FAPE in the October 1, 2024 IEP by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 7b.

ISSUE 7c:

Sebastopol did not deny Student a FAPE in the October 1, 2024 IEP by failing to offer individualized multisensory reading instruction or dyslexia or dysgraphia services.

Sebastopol prevailed on Issue 7c.

ISSUE 7d:

Sebastopol did not deny Student a FAPE in the October 1, 2024 IEP by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 7d.

ISSUE 8a:

Sebastopol did not deny Student a FAPE in the December 9, 2024 IEP by failing to offer autism eligibility.

Sebastopol prevailed on Issue 8a.

ISSUE 8b:

Sebastopol did not deny Student a FAPE in the December 9, 2024 IEP by failing to offer goals or accommodations relating to dyslexia and dysgraphia.

Sebastopol prevailed on Issue 8b.

ISSUE 8C:

Sebastopol did not deny Student a FAPE in the December 9, 2024 IEP by failing to offer individualized multisensory reading instruction or dyslexia or dysgraphia services.

Sebastopol prevailed on Issue 8c.

ISSUE 8d:

Sebastopol did not deny Student a FAPE in the December 9, 2024 IEP by failing to offer an appropriate placement to address his dyslexia and dysgraphia.

Sebastopol prevailed on Issue 8d.

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ISSUE 9a:

Sebastopol did not deny Student a FAPE from April 29, 2023 through April 29, 2025, by significantly impeding Parents' ability to participate in the IEP decisionmaking process by failing meaningfully consider Parents' input regarding need for autism support.

Sebastopol prevailed on Issue 9a.

ISSUE 9b:

Sebastopol did not deny Student a FAPE from April 29, 2023 through April 29, 2025, by significantly impeding Parents' ability to participate in the IEP decisionmaking process by failing meaningfully consider Parents' concern that Student did not make meaningful progress in the areas of academics.

Sebastopol prevailed on Issue 9b.

ISSUE 9c:

Sebastopol did not deny Student a FAPE from April 29, 2023 through April 29, 2025, by significantly impeding Parents' ability to participate in the IEP decisionmaking process by failing meaningfully consider the findings and recommendations of Parents' educational evaluation assessor.

Sebastopol prevailed on Issue 9c.

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ORDER

All relief sought by Student is 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.

ALEXA HOHENSEE

Administrative Law Judge

Office of Administrative Hearings