

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

LAGUNA BEACH UNIFIED SCHOOL DISTRICT.

CASE NO. 2025040200

DECISION

DECEMBER 3, 2025

On April 3, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Laguna Beach Unified School District. On April 28, 2025, OAH received an amended due process hearing request from Student, naming Laguna Beach. At the June 6, 2025 prehearing conference, the amended complaint was deemed filed as of June 6, 2025. At the June 6, 2025 prehearing conference, a continuance was granted to the August 5, 2025 hearing date. Administrative Law Judge Ted Mann heard this matter in Los Angeles on August 5, 6 and 7, 2025, September 2, 3, 4, 16, 17, 18, 23, 24, 25 and 30, 2025, and October 1, 2, 3, 7, 8, and 9, 2025.

Student's mother, called Parent, represented Student. Attorney Jennifer Fant represented Laguna Beach. Irene White, Laguna Beach Special Education Director, or Jennifer Moss, Laguna Beach Acting Special Education Director, attended all hearing days on Laguna Beach's behalf.

At the parties' request, the matter was continued for submission of written closing briefs by 3:00 p.m. on November 7, 2025. The record was closed, and the matter submitted on November 7, 2025.

Thereafter, without permission from OAH, Parent filed a document entitled "Student's Rebuttal to District's Closing Brief". Such a document was not part of the briefing schedule discussed at hearing and the filing was not considered in the preparation of this Decision.

ISSUES

1. Does the series of Settlement Agreements between Student and Laguna Beach preclude Student's FAPE claims prior to October 5, 2024?
2. Did Laguna Beach deny Student a FAPE by failing to provide Student an appropriate program and services from April 3, 2023, through April 28, 2025, in the following areas:
 - a. academics;
 - b. auditory;

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- c. visual;
 - d. goals in the areas of:
 - i. auditory needs;
 - ii. visual needs; and
 - iii. social needs; and
 - e. eye tracking accommodations?
3. Did Laguna Beach deny Student a FAPE by failing to offer Student an in-district placement from April 3, 2023, through April 28, 2025?
 4. Did Laguna Beach deny Student a FAPE by offering an inappropriate placement below Student's academic ability from April 3, 2023, through April 28, 2025?
 5. Did Laguna Beach deny Student a FAPE by failing to complete an auditory processing assessment of Student from April 3, 2023, through April 28, 2025?
 6. Did Laguna Beach's procedural violations regarding the triennial assessment, dated May 17, 2023, deny Student a FAPE by:
 - a. conducting the assessment while Student was ill and hospitalized;
 - b. excluding Parent from the majority of testing sessions during the assessment; and
 - c. not consulting Parent on the selection of assessment tools for the assessment?

7. Did Laguna Beach's procedural violations deny Student a FAPE by denying repeated independent educational evaluation requests, including failing to provide prior written notice of the denials, from April 3, 2023, through April 28, 2025?

Student's original Issue 4, related to allegedly coercive settlement agreements, and Issue 5, related to alleged retaliation and hostile communication, were dismissed by separate order by OAH on July 24, 2025, in response to Laguna Beach's motion to dismiss. The issues were reworded and renumbered at the PHC for clarity under the discretion of the Administrative Law Judge. (*M.C. v. Antelope Valley Union High Sch. Dist.* (9th Cir. 2017) 858 F.3d 1189 .(*M.C.*) No change in substance was made.

As discussed in detail, below, in Issue 1, on the first day of the hearing, August 5, 2025, the parties presented evidence whether the series of Settlement Agreements between Student and Laguna Beach precluded Student's FAPE claims prior to October 5, 2024. Based upon the evidence and argument presented at hearing, it was found that the series of Settlement Agreements between Student and Laguna Beach precluded Student's FAPE claims prior to October 5, 2024. As a result, Issue 6 was dismissed as having been waived by the Settlement Agreements. Additionally, Issues 2, 3, 4, 5 and 7 were limited to the period beginning October 5, 2024 through April 28, 2025, the date of filing of Student's Amended Complaint.

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JURISDICTION

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

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

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education, referred to as FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; 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 12 years old and in the sixth grade at the time of hearing. Student resided within Laguna Beach's geographic boundaries at all relevant times. Student was eligible for special education under the primary category of autism.

ISSUE 1: DOES THE SERIES OF SETTLEMENT AGREEMENTS BETWEEN STUDENT AND LAGUNA BEACH PRECLUDE STUDENT'S FAPE CLAIMS PRIOR TO OCTOBER 5, 2024?

Laguna Beach contends that Student's claims arising prior to October 5, 2024, were waived through a series of settlement agreements executed between Student and Laguna Beach. Collectively, Laguna Beach alleges the series of agreements waived all educationally related claims by Student against Laguna Beach arising before that date.

Student contends that the settlement agreements were not understood by the Parents and that, in particular, the agreements do not waive Student's right to raise claims regarding the triennial assessment that was completed in the spring of 2023. Further, Student contends that the settlement agreements should not be enforced against Student as they were obtained through mistake, coercion and or fraud.

Parents have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child" under the federal Individuals with Disabilities Act (IDEA) or California law. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) When a settlement agreement is voluntarily and willingly entered into by the parties, it becomes a binding contract. (*D.R. v. East Brunswick Board of Education* (3rd Cir. 1997) 109 F.3d 896, 898.) OAH has jurisdiction to hear due process claims arising under the IDEA. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026,

1028-1029.) As to settlement agreements, OAH jurisdiction is limited to adjudicating claims alleging a denial of a student's right to a free appropriate public education (FAPE) as a result of a violation of the agreement. (See *Pedraza v. Alameda Unified Sch. Dist.* (N.D.Cal. 2007) 2007 U.S. Dist. LEXIS 26541.

The issue presented by Parent's due process request is not whether there was a violation of a settlement agreement that resulted in a denial of FAPE to Student, but whether or not the settlement agreement can be rescinded. The jurisdiction of OAH is very narrow and does not include rescission of settlement agreements when a dispute arises as to the validity of the agreement. The proper forum for Student to set aside the settlement agreement is not OAH, but through the court system.

The settlement agreement has not been invalidated by a court of competent jurisdiction. Accordingly, OAH looks to the terms of the settlement agreement for understanding.

Settlement agreements are interpreted using the same rules that apply to interpretation of contracts. (*Vaillette v. Fireman's Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 686 [citing *Adams v. Johns-Manville Corp.* (9th Cir. 1989) 876 F.2d 702, 704].) "Ordinarily, the words of the document are to be given their plain meaning and understood in their common sense; the parties' expressed objective intent, not their unexpressed subjective intent, governs." (*Id.* at p. 686.)

The parties executed six settlement agreements and several modifications to various agreements between February 24, 2020 and September 12, 2024. The fifth of the settlement agreements was finalized in October 2023. Laguna Beach's Superintendent and both Parents signed the agreement with the last signature dated

October 26, 2023. Among other things, the agreement provided reimbursement to Parents for educational programming for Student in return for a waiver of all educationally related claims by Student through August 24, 2024. The fifth settlement agreement expressly stated that the agreement was not intended to provide FAPE to the Student. A modification to the October 26, 2023 settlement, dated June 10, 2024 and signed by both Parents and the Superintendent, did not change the foregoing terms.

The sixth and final of the settlement agreements was finalized in August 2024. Laguna Beach's Superintendent and both Parents signed the agreement with the Parents' signatures dated August 26, 2024. Among other things, the agreement provided an interim educational program to Student prior to their agreed-upon placement at Port View non-public school on or about October 7, 2024, in return for a waiver of all educationally related claims by Student through October 4, 2024. The sixth settlement agreement expressly stated that the agreement was not intended to provide FAPE to the Student.

Here, Student expressly waived any educationally related claims against Laguna Beach during the statutory period beginning April 3, 2023, through the final date of the waiver, October 4, 2024. Importantly, both the fifth and sixth settlement agreements expressly state that the agreement was not intended to provide FAPE to the Student. In other words, the parties agreed to specified remedies in exchange for a waiver of claims, which precludes relitigation of those claims. Moreover, the parties did not leave open the question of whether District offered or provided Student with a FAPE under the terms of the settlement agreement.

As such, it is found that Student's issues, to the extent that they seek to go back further than October 5, 2024, are waived by action of the settlement agreements as OAH has no jurisdiction over waived claims. This finding applies to Student's Issues 2, 3, 4, 5, and 7 as related in the July 25, 2025 Prehearing Conference order, and as adopted for this hearing following additional discussions at the inception of this hearing. Additionally, it is found that Student's Issue 6 addressing the May 17, 2023 triennial assessment, as related in the Prehearing Conference Order, is waived by action of the settlement agreements.

ISSUE 2: DID LAGUNA BEACH DENY STUDENT A FAPE BY FAILING TO PROVIDE STUDENT AN APPROPRIATE PROGRAM AND SERVICES FROM OCTOBER 5, 2024 THROUGH APRIL 28, 2025 IN THE AREAS OF ACADEMICS, AUDITORY, VISUAL, GOALS AND EYE TRACKING

Student contends that Laguna Beach failed to provide Student with an appropriate educational program in the areas of academics, auditory support, visual support and goals in the areas of visual needs, auditory needs and social needs. Student also contends that Laguna Beach failed to provide Student with appropriate accommodations for Student's eye tracking issues.

Laguna Beach contends that the program, services, supports, goals and accommodations offered to Student addressed Student's needs in the disputed areas and offered Student a FAPE.

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A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].) The IEP is the centerpiece of the IDEA's education delivery system for disabled children and consists of a detailed written statement that must be developed, reviewed, and revised for each child with a disability. (*Honig v. Doe* (1988) 484 U.S. 305, 311 [108 S.Ct. 592, 98 L.Ed.2d 686]; 20 U.S.C. §§ 1401(14), 1414(d)(1)(A); Ed. Code, §§ 56032, 56345.)

In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314 (*Gregory K.*)). It must be assessed in terms of what was objectively reasonable when the IEP was developed. (*Fuhrmann, supra*, 993 F.2d 1031.) An IEP is evaluated in light of information available at the time it was developed, and is not to be evaluated in hindsight. (*Adams, supra*, 195 F.3d at p.1149.)

The methodology used to implement an IEP is left up to the district's discretion so long as it meets a student's needs and is reasonably calculated to provide meaningful educational benefit to the child. (*Rowley, supra*, 458 U.S. at p. 208; *Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141,1149-1150; *Pitchford v. Salem-Keizer School Dist.* (D. Or. 2001) 155 F.Supp.2d 1213, 1230-32; *T.B. v. Warwick School Committee* (1st Cir. 2004) 361 F.3d 80, 84 (citing *Roland M. v. Concord School Committee* (1st Cir. 1990) 910 F.2d 983, 992.)

Special education law does not require schools to use any particular methodology to address a special education student's disability-related needs. Rather, "[t]he IDEA accords educators discretion to select from various methods of meeting the individualized needs of a student, provided those practices are reasonably calculated to provide him with an educational benefit." (*Crofts v. Issaquah Sch. Dist. No. 411* (9th Cir. 2022) 22 F.4th 1048, 1056-57 (*Crofts*) [citing *R.P. ex rel. C.P. v. Prescott Unif. Sch. Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122].

Student attended a private program run by Dr. Chris Davidson, a licensed educational psychologist and behavior analyst, from August 2020 to early March 2023 pursuant to a series of settlement agreements between Parents and Laguna Beach. While at the Davidson Learning Center, Student received one-to-one instruction from a special education teacher and also worked individually with Dr. Davidson. The arrangement finally broke down completely in February 2023 due to Parent's ongoing behavior and demands that resulted in the one-to-one instructor refusing to continue working with Student. Concurrently, Parent reported escalating complaints regarding the Davidson program to the Laguna Beach Director of Special Education, Irene White. Student's last day at Davidson Learning Center was March 8, 2023.

Laguna Beach conducted triennial assessments of Student over eight days in April and May 2024 with a resulting multidisciplinary assessment report, dated May 17, 2023. An independent agency, Launchpad, conducted an occupational therapy assessment at Laguna Beach's direction to add to the triennial information.

A triennial IEP was held in two parts on May 25, 2023 and June 6, 2023 to review the assessments and create an IEP offer for Student. Both Parents attended the first session and Student's Mother attended the second session. Irene White attended both sessions on behalf of Laguna Beach. Very detailed present levels of ability and need were developed for Student based upon the assessments, observations, Student's history and Parent reports. Laguna Beach recommended additional assessments in the areas of assistive technology, adapted physical education and vision. The vision assessment included concerns about Student's eye tracking and eye teaming. A total of 26 goals were proposed in the areas of academics, vocational, adaptive skills, social-emotional, speech-language and occupational therapy.

A non-public school was offered with the IEP team identifying Port View School as an appropriate placement based on Student's complex needs. The IEP offer included specialized academic instruction, a one-to-one aide, behavior intervention support and supervision, speech-language services and occupational therapy services. The offer also included an extended school year program and services at the non-public school. Parent was unhappy that Laguna Beach did not have a program within the district that could meet Student's needs.

Student's next annual IEP was held on May 23, 2024, to comply with the existing settlement agreement and provide an IEP to Student for the 2024-2025 school year. Student's Mother and Irene White both attended the IEP meeting. Student had been

attending a Lindamood Bell program pursuant to the parties' earlier settlement agreements, but that had not worked out for Student and Parent discontinued attendance. Student continued with speech-language and occupational therapy through the settlement during the year and otherwise Parent was home schooling Student. Student remained on the waiting list for Port View with the hope that Port View would have availability for Student in fall 2024.

The May 23, 2024 IEP team reviewed Student's progress in speech-language and occupational therapy. The parties' mutual interest in placing Student at Port View was discussed and confirmed. The IEP proposed 23 goals for Student for the upcoming year. Student's goals were revised for speech-language and occupational therapy, and continued from the previous IEP for academics, vocational skills, social-emotional and adaptive skills. Once Student began attending Port View, a 30-day IEP would be held to revise Student's program in light of his then present levels based on assessments and observation of Student's first 30 days at Port View.

Following Student's summer program, an IEP was held on August 12, 2024, to review Student's programming and progress. Both Parents attended the IEP. Student's progress over the summer and then current present levels were reviewed by the IEP team. A non-meeting IEP amendment was completed on October 1, 2024, to officially place Student at Port View and to add adult support to Student's transportation services. All IEP services, including specialized academic instruction, the one-to-one aide, behavior intervention, speech-language and occupational therapy, were updated to the Port View location.

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On October 21, 2024, an IEP team meeting was held to review assessments of Student in vision, assistive technology and adaptive physical education. Student's Mother attended the IEP. The assessments were presented by the specialists who conducted them, including Dr. Erin Igne, a vision specialist. Services were added for Student in vision, assistive technology and adaptive physical education. Goals were reviewed, and six goals were added for vision and two for adaptive physical education for a total of 31 goals, including the existing goals in the areas of

- academics,
- vocational,
- adaptive skills,
- social-emotional,
- speech-language and
- occupational therapy.

Dr. Igne was a graduate with honors from the Southern California College of Optometry in 2014 and had been continuously licensed in Optometry in the State of California since 2014. She had owned and operated Family Tree Optometric in Irvine since 2016, specializing in pediatric optometry and addressing children's visual issues. She advised and instructed optometry interns in proper therapeutic procedures for patients while an adjunct faculty member of Marshall B. Ketchum University from 2016 to 2019. Her testimony was clear, reasoned and thorough, demonstrating good recall of events related to this case. Her testimony was given significant weight as a result.

Dr. Igne explained that Student had needs in vision due to his difficulty with eye tracking, in particular both following an object and making small eye movements such as those required to read across a line. Student also had difficulties with eye teaming and double vision, resulting in various behaviors to prevent double images. Igne recommended corrective lenses, weekly optometric visual therapy and classroom accommodations including pointing prompts.

On November 6, 2024, a 30-day IEP meeting was held to review Student's progress, acclimatization to the new program, and present levels of performance. Both Parents attended the IEP. The IEP team also included

- SELPA program specialist Samantha Gambrell,
- Laguna Beach program specialist Jennifer Moss,
- Port View lead administrator Maria Swanson,
- Port View special education teacher Nicole Falbo,
- Port View occupational therapist Rachel Sweeney (Rucireta),
- Port View speech language pathologist Elizabeth Bloch,
- Port View lead behavioral therapist Christopher Morales and
- pediatric optometrist Igne who attended by phone.

Individual 30-day reports were reviewed for academics, speech-language, occupational therapy and behavior intervention. Student's present levels were updated and his progress on existing goals reviewed, along with proposed new goals.

Ms. Bloch earned bachelor's degrees in both Human Development and Communication Disorders, along with a master's degree in Communication Science and Disorders. She held both California and Federal licenses as a speech language pathologist. Her testimony was clear, focused and professional with good recollection of events in question, affording her a high degree of credibility in her testimony.

Ms. Bloch presented the 30-day speech-language report. She had previously attended the October 21, 2024 IEP where the adaptive augmented communication and visions assessments had been presented. The 30-day report was prepared from data she had taken of Student while providing speech-language services to them at Port View. The data collection included observations of Student, probing skill levels and running goals with Student.

Bloch reviewed Student's present levels in speech-language indicating that Student's expressive, receptive and pragmatic speech was limited. Bloch reviewed Student's speech-language goals carried over from the May 23, 2024 IEP. Student had met one of the goals and had partially met the other five. Building off the existing goals and partial progress, Bloch proposed five new goals in "I and I" blends, receptive questions, receptive language and two goals in expressive language, discussing the proposed goals with the IEP team, including Parent. The goals were written through Student's next annual IEP in May 2025.

Bloch testified that Student benefitted from their first 30 days at Port View. Student also benefitted from both individual and group speech-language sessions, as well as the language rich classroom model used by Port View. Student further benefitted from social groups run by Bloch that were provided separate from the

speech-language sessions. She utilized Student's accommodations in all of these settings, including Student's vision accommodations such as pointing and other prompts.

Ms. Sweeney earned a bachelor's degree in Kinesiology, along with a master's degree in occupational therapy. She held a California license as an occupational therapist. She had worked at Port View for five years at the time Student started and was currently the director of occupational therapy. She had extensive experience working with children on the autism spectrum. Her testimony was clear, focused and professional with good recollection of events in question, affording her a high degree of credibility in her testimony.

Ms. Sweeney presented the 30-day occupational therapy report. She had previously attended the October 21, 2024 IEP where the adaptive augmented communication and visions assessments had been presented. The 30-day report was prepared from data she had taken of Student while providing occupational therapy to them at Port View. The data collection included observations of Student, direct work with Student and running goals with Student.

Sweeney reviewed Student's present levels in occupational therapy indicating that Student's needs included visual motor skills and self-regulation. In particular, Student's hands and eyes did not work well together in a coordinated way and Student needed a significant level of prompts, including visual prompts.

Sweeney reviewed Student's occupational therapy goals carried over from the May 23, 2024 IEP. Student had met four of the five goals and had partially met the other goal in writing to the baseline. Building off the existing goals and Student's

progress, Sweeney proposed three new goals in fine motor and visual motor, fine motor and praxis and regulation/attention, discussing the proposed goals with the IEP team, including Parent. Each of the three new goals supported Student's auditory, academic and visual needs. The goals were written through Student's next annual IEP in May 2025.

Sweeney testified that Student benefitted from his first 30 days at Port View. Student also benefitted from both classroom and occupational therapy room therapy sessions. She utilized Student's accommodations in all of these settings, including Student's vision accommodations such as pointing and other prompts and has observed other staff doing the same. Sweeney believed that Student benefitted from the Port View setting, particularly as opposed to a theoretical district placement at Thurston Middle School as that school was a large, general education public school with the attendant noise, transitions, distractions and typical middle school atmosphere.

Ms. Falbo was Student's special education classroom teacher. She reported that Student was able to read at a fifth-grade level, but Student's comprehension lagged far behind at the kindergarten or first-grade level. Student had met two out of five of his academic goals and Falbo proposed 11 new goals across reading, writing, and math. Each of the goals was tied to the state standard and included a grade level designation.

Mr. Morales earned a bachelor's degree with honors in Psychology, along with a master's degree in teaching with a specialization in applied behavior analysis. Morales had held a license as a board-certified behavior analyst since August 2017. He worked for nine years with Kadient, rising to the position of clinical supervisor, before moving to Port View as the clinical classroom support supervisor beginning October 2022. He supervised behavioral support at Port View at the time of the hearing. He had extensive

experience working with children who required behavioral support. His testimony was clear, focused and professional with good recollection of events in question, affording him a high degree of credibility in his testimony.

Morales testified that Student presented challenging behaviors in the first couple weeks at Port View, but had begun to acclimatize to the new, different environment by the 30-day mark. He identified problematic behaviors by Student in the areas of physical aggression, elopement, climbing and mouthing objects. Student had met two of four social-emotional behavioral goals, and the unmet goals were modified and continued. Morales proposed five new goals in

- social skills participation,
- reciprocating greetings and farewells,
- self-regulation,
- attending to group tasks, and
- functional communication.

The resulting IEP offer on November 6, 2024, included 31 goals in Student's various areas of need, along with an offer of a program, services and supports at Port View. The offer included placement in a special day class with

- 360 minutes daily of specialized academic instruction,
- weekly individual and group speech-language services,
- weekly occupational therapy services,
- weekly adapted physical education services,

- weekly vision services to be provided by Dr. Igne, and
- 360 minutes daily of individual services of a one-to-one aide with support from a board-certified behavioral analyst.

One hundred percent of Student's time would be spent away from the general education setting.

Laguna Beach also offered Student extensive program accommodations with instructional, setting, and testing accommodations. The instructional accommodations included the use of visual schedules pairing verbal directions with visual supports, gaining Student's attention prior to demand, using visuals, prompting to scan the entire targeted field, and prompting to attend as needed. Parents both agreed with the IEP offer and signed the IEP on November 18, 2024.

Subsequent to the November 6, 2024 IEP, several additional IEP meetings were held to modify the IEP document, review Student's functional behavior assessment, change Student's classroom, and address Parent concerns. An addendum IEP was held on November 15, 2024, at Parent request, to change Student's speech services to exclusively individual services. On December 12, 2024, an addendum IEP was held to document Student's inclusion percentages regarding general education.

On February 12, 2025, an IEP team meeting was held to review Student's functional behavior assessment, a proposed behavior intervention plan, and two new behavioral goals. The IEP also addressed Parent's concerns about noise in Student's then current classroom, resulting in the proposal of a classroom change.

On March 12, 2025, an IEP team meeting was held to discuss Parent's concerns about Student anxiety, along with progress in speech-language and academics. Student's then current behavior and transition to the new classroom were discussed. Student's assessment status, along with the absence of need for additional assessments, and Parent's continuing request for a psychoeducational independent educational assessment were discussed. Student's goals, program, services, supports and accommodations were continued unchanged.

The IEP is a comprehensive statement of the educational needs of a child with a disability, and the specially designed instruction and related services to be employed to meet those needs. (*School Comm. of Town of Burlington, Mass. v. Department of Educ. of Mass.* (1985) 471 U.S. 359, 368 [105 S.Ct. 1996] (*Burlington*)). It is a written document for each child with exceptional needs that includes a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. (20 U.S.C. § 1414(d)(1)(A)(i)(I); 34 C.F.R. § 300.320(a)(1); Ed. Code, § 56345, subd. (a)(1).) 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.)

Special education is specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs. (20 U.S.C. § 1401(29); Ed. Code, § 56031, subd. (a).) A Student's IEP must contain a statement of the special education and related and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to a student to enable the student to

advance to attaining the annuals goals, to be involved in and make progress in the general education curriculum. (20 U.S.C. § 1414(c)(i)(B)(iv); Ed. Code, § 56345, subd. (a)(4).)

The evidence demonstrated that Laguna Beach offered Student an appropriate program, services, and goals between October 5, 2024, and April 28, 2025, in the disputed areas identified in Student's Issue 2 of

- academics,
- auditory support,
- visual support,
- goals in the areas of visual needs, auditory needs and social needs, and
- eye tracking accommodations.

ACADEMIC SERVICES

Student contends that Laguna Beach denied him a FAPE by a failure to provide him with an appropriate program and services in academics. Laguna Beach contends that the May 23, 2024 IEP, combined with the IEPs that followed, provided Student with a FAPE in academics.

Parent raised concerns regarding the grade level of Student's academic work as well as Parent's concern that Student could already complete the academic tasks identified in Student's goals. Parent testified and presented video exhibits of Student completing certain academic tasks such as copying sentences onto lined paper.

However, Parent was unable to credibly and reliably testify to the circumstances or dates of Student's alleged performance of certain academic tasks. However, it is undisputed that the videos did not show Student in a classroom setting of any kind.

In general, Parent suffered from a lack of credibility arising from poor recollection of events, particularly regarding timing of events or time frames in general. Additionally, Parent was frequently argumentative, accusatory, repetitive and unable to conform to basic expectations regarding hearing conduct. Further, Parent admitted to gathering or researching information through artificial intelligence applications such as Chat-GPT, leading to confusion and misinformation in Parent's presentation and testimony. Also, Parent did not testify to any educational background, training or expertise, including in the educational services realm that would inform her testimony. Without question, Parent loves her child and wants to be their child's best advocate, but the combination of factors demonstrated at hearing result in Parent having very low credibility with regard to hearing testimony and proposed exhibits.

Considering the limited recall of events and dates, Student failed to present credible evidence that they were able to perform tasks or demonstrate skills other than as observed and catalogued in the IEP teams' present levels of performance on academic tasks. Student's academic program, supports and accommodations were carefully constructed by the IEP teams to reflect what Student was able to do at Port View. Goals were reviewed and revised as appropriate and in all cases were tied to state standards and to an identified grade level. For their part, representatives for Port View, Laguna Beach and third parties, testified credibly, professionally and with attention to

detail and expertise. As such, the evidence strongly supported the conclusion that Student's academic program, supports and accommodations were appropriate for Student and provided them with a FAPE.

AUDITORY SERVICES

Student contends that they were denied a FAPE by a failure to provide them with appropriate services for auditory needs. Laguna Beach contends that the May 23, 2024 IEP, combined with the IEPs that followed, provided Student with a FAPE for their auditory needs.

Parent failed to present credible evidence that Student was denied a FAPE by a failure to provide Student with appropriate services for auditory needs. Student's past assessments indicated that Student had functional hearing, but that was accompanied by difficulties with auditory processing ranging from low to average range. In particular, Student's prompt dependence made it difficult for him to follow directions and answer questions in an assessment setting. Student needed visual pairing and modeling in order to function academically.

As discussed above, Student's Port View IEPs addressed these needs by providing a series of supports including a one-to-one aide, extensive behavioral supports and accommodations in order for Student to access their education in a classroom setting. At the time of hearing, there was no credible evidence presented that indicated that Student needed other services, supports, or accommodations related to his auditory needs for Student to receive a FAPE.

VISUAL SERVICES

Student contends that Laguna Beach denied them a FAPE by a failure to provide them with appropriate services for visual needs. Laguna Beach contends that the May 23, 2024 IEP, combined with the IEPs that followed, provided Student with a FAPE for their visual needs from October 5, 2024, to April 28, 2025.

Parent failed to present credible evidence at hearing that insufficient or inappropriate visual services denied Student a FAPE at Port View. Student had known issues with vision and visual processing prior to attending Port View. Those issues had been well characterized through prior assessment and were further informed by Port View's 30-day reports and Dr. Igne's October 21, 2024 optometric report, as previously detailed, above. In particular, in response to Dr. Igne's assessment, the IEP team added vision therapy to Student's IEP as a weekly service at the 30-day IEP, and ultimately had Dr. Igne travel to Port View to assist other Port View service providers with informed approaches to Student's visual needs beginning in approximately March 2025.

Additionally, Student's IEP contained detailed and extensive accommodations geared to assisting Student with their visual needs in an educational setting. These accommodations included visual cues and prompts. As testified to by several witnesses, including Igne and Bloch, those prompts were comprehensive and specific, and included accommodations for Student's eye tracking and visual attention. In sum, it is found that Student's Port View IEP did not deny them a FAPE by failing to address Student's visual needs.

GOALS IN AUDITORY, VISUAL AND SOCIAL NEEDS

Student contends that district denied them a FAPE by failing to provide appropriate goals in auditory, visual and social needs. Laguna Beach contends that Student was provided appropriate goals in the areas of auditory, visual and social needs that were based upon accurate present levels and formulated to allow Student to make progress in each area of need.

The IEP must include a statement of measurable annual goals. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2); Ed. Code, § 56345, subd. (a)(2).) Measurable goals must include academic and functional goals, designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and meet each of the child's other educational needs that result from the child's disability. (*Ibid.*) Annual goals must be appropriately ambitious in light of the child's circumstances. (*Andrew F., supra*, 580 U.S. at p. 402)

However, the statement of measurable annual goals does not require statements of quantifiable baselines. (*A.G. v. Paso Robles Joint Unified Sch. Dist.* (9th Cir. 2014) 561 Fed.Appx. 642, 644 (*Paso Robles*).) In *Paso Robles*, the student claimed that his parents and the IEP team had no way of measuring his progress or determining whether he received a FAPE because the school district did not identify a measurable baseline of his abilities. (*Ibid.*) There, one IEP stated that the student had "some difficulty forming age-appropriate sentences," and another IEP stated that the student "often" shouted out off-topic answers without waiting for the teacher to call on him, but neither IEP defined

“some” or “often.” (*Ibid.*) There, the Ninth Circuit found no FAPE violation because the student failed to demonstrate the statements of his baseline achievement and performance levels were inaccurate. (*Ibid.*)

Additionally, the IEP must contain statements of how the child’s goals will be measured and the special education and related services, based on peer-reviewed research to the extent practicable, that will be provided to the student. (20 U.S.C. § 1414(d)(1)(A)(i)(III), (IV); 34 C.F.R. § 300.320(a)(3), (4); Ed. Code, § 56345, subd. (a)(3), (4).) The IEP shall show a direct relationship between the present levels of performance, the goals and objectives, and the specific educational services to be provided. (Cal. Code Regs., tit. 5, § 3040.)

The purpose of annual goals is to permit the IEP team to determine whether the pupil is making progress in an area of need. (Ed. Code, § 56345, subd. (a).) The IEP team need not draft IEP goals in a manner that the parents find optimal, as long as the goals are objectively measurable. The IDEA does not require an IEP to contain every goal from which a student might benefit. (*Capistrano Unified School Dist. v. S.W., et al.* (9th Cir. 2021) 21 F.4th 1125, 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. Regs., Appendix A, Part 300 - *Assistance to States for the Education of Children with Disabilities* (1999), discussing language also contained in the 2004 reauthorization of the IDEA at 20 U.S.C. § 1414(d)(1)(A)(i)(II).)

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Here, Student failed to prove by a preponderance of the evidence that Laguna Beach failed to offer appropriate goals in the areas of auditory, visual and social needs. No expert testimony supported Parent's assertions regarding the goals in question, instead, in support of Laguna Beach's contentions, a series of educational professionals described how the goals in the various IEPs supported Student's auditory, visual and social needs.

As discussed, above, Student's 30-day IEP allowed the IEP team to conduct a thorough review of Student's needs, present levels of performance and existing goals, including those addressing auditory, visual and social needs. Parent contended that Student's goals were not sufficiently challenging or complete. However, Parent consistently failed to understand that Student's placement at Port View was designed to transition him away from the most restrictive settings that had comprised Student's education for many years, including a history of one-on-one instruction from Parent, Dr. Davidson and Lindamood Bell. The goals were designed to support Student generalizing their skills in a classroom and other settings, rather than alone in a room with an adult.

For example with regard to visual needs, the November 6, 2024 IEP offered Student six goals in vision, the first of which addressed Student's visual needs related to pursuit eye movements, requiring Student to gradually raise their scoring in such movements from 1+ to 2 to 3+ over the course of the goal. The evidence at hearing demonstrated through the testimony of Dr. Igne, among others, that the goal was appropriate to meet Student's needs, was measurable, and was designed for Student to make appropriate progress.

With regard to social-emotional needs, the November 6, 2024 IEP offered Student four goals in social-emotional needs, the first of which addressed Student's social-emotional needs related to peer interactions, requiring Student to gradually raise their performance in the area over the course of the goal. The evidence at hearing demonstrated through the testimony of Morales and Bloch, among others, that the goal was appropriate to meet Student's needs, was measurable, and was designed for Student to make appropriate progress.

Student's placement at Port View was designed to reintroduce Student to a classroom setting, and begin to work on Student's social and adaptive skills in that setting. The goals proposed and adopted by the IEP were designed to address Student's needs and further their skills in that setting, allowing Student to become less prompt dependent over time and eventually able to generalize skills. Witnesses Igne, Swanson, Morales, Miguel, White and acting special education director Jennifer Moss all testified credibly and convincingly that Student's goals were based upon Student's needs and present levels. Their testimony strongly supported the conclusion that Student's goals in auditory, visual and social needs were (a) appropriate, (b) designed to enable Student to be involved in and make progress in the general education curriculum, (c) meet each of Student's other educational needs that result from their disability, and be (d) appropriately ambitious in light of Student's circumstances.

It is found that Student's goals in auditory, visual and social needs in the Port View IEP did not deny Student a FAPE.

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EYE TRACKING ACCOMMODATIONS

Student contends that Laguna Beach denied them a FAPE by failing to provide appropriate accommodations for eye tracking. Laguna Beach contends that Student was provided appropriate accommodations in eye tracking because of the extensive accommodations that addressed Student's visual needs along with obtaining an assessment of Student's visual needs from Igne.

As discussed, above, Student had comprehensive accommodations to address Student's issues with eye tracking. Parent contended that Student's accommodations did not focus singularly on eye tracking, and did not explain exactly how to use a finger to direct Student's eyes and attention. As related, above, several witnesses, including Inge and Bloch, among others, testified convincingly that the concept of using a finger to point and direct Student's eyes and attention was clearly included in the accommodations provided for Student in the IEP. It is found that Student's Port View IEP's, beginning with the May 23, 2024 IEP that was utilized upon Student's arrival at Port View, offered appropriate accommodations to address Student's eye tracking needs and, therefore, offered Student a FAPE.

Based upon the preponderance of the evidence, Student did not meet their burden of proving that Laguna Beach denied them a FAPE in the areas of

- academics,
- auditory support,

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- visual support,
- goals in the areas of visual needs, auditory needs and social needs and
- eye tracking accommodations as alleged in Issue 2.

ISSUE 3: DID LAGUNA BEACH DENY STUDENT A FAPE BY FAILING TO OFFER STUDENT AN IN-DISTRICT PLACEMENT FROM OCTOBER 5, 2024 THROUGH APRIL 28, 2025?

Student contends that Laguna Beach denied Student a FAPE by failing to provide Student with an in-district placement from October 5, 2024, through April 28, 2025. Student does not contend that the offered placement was too restrictive, rather that Student was simply entitled to attend a school within the Laguna Beach boundaries.

Laguna Beach contends that an appropriate placement was unavailable within its public schools or its district boundaries and that it was required to offer Student a FAPE, even if that meant placement in a non-public school outside the district's physical boundaries, funded by Laguna Beach

School districts are required to provide each special education student with an appropriate program in the least restrictive environment, with removal from the regular education environment occurring only when the nature or severity of the student's disabilities is such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R.

§ 300.114 (a)(2); Ed. Code, §§ 56031, 56033.5.) The IDEA also requires, to the maximum extent appropriate, that a child with a disability be educated with children who are not disabled. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2); Ed. Code, § 56040.1, subd. (a).)

School districts, as part of a special education local plan area, must have available a continuum of program options to meet the needs of individuals with exceptional needs for special education and related services as required by the IDEA and related federal regulations. (34 C.F.R. § 300.115; Ed. Code, § 56360.) The continuum of program options includes, but is not limited to:

- regular education;
- resource specialist programs;
- designated instruction and services;
- special classes;
- non-public, non-sectarian schools;
- state special schools;
- specially designed instruction in settings other than classrooms;
- itinerant instruction in settings other than classrooms; and
- instruction using telecommunication, instruction in the home, or instruction in hospitals or institutions. (34 C.F.R. § 300.115; Ed. Code, § 56361.)

If it is determined that a child cannot be educated in a general education environment, then the analysis requires determining whether the child has been mainstreamed to the maximum extent that is appropriate in light of the continuum of program options. (*Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1048-1050; *B.S. v. Placentia-Yorba Linda Unified School District* (9th Cir. 2009) 306 Fed.Appx. 397, 400.)

In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (See *Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) A school district is not required to place a student in a program preferred by a parent, even if that program will result in greater educational benefit to the student. (*Ibid.*) For a school district's offer of special education services to a student to constitute a FAPE under the IDEA, a school district's offer of educational services and/or placement must be designed to meet the student's unique needs, comport with the student's IEP, and be reasonably calculated to provide the student with some educational benefit in the least restrictive environment. (*Ibid.*)

Student did not prove that Student was entitled to placement within the physical boundaries of Laguna Beach district at a physical district campus. Student did not claim that Student was not placed within the least restrictive environment but literally asserted that Laguna Beach had denied Student a FAPE by not educating them within district boundaries on a district campus. Parent offered no legal basis for the proposition that such a requirement exists. Rather, the law supports Laguna Beach in that the district is required to provide a program for Student, but the district is not required to create a program for Student, nor necessarily educate them within district boundaries, if their

needs dictate another placement. Instead, district may utilize programs on the continuum that meet Student's needs and provide FAPE, regardless of whether the program is provided within the district, on a district campus, or elsewhere outside the district.

Although Student did not raise the issue of least restrictive environment in asserting that Laguna Beach was obligated to educate Student within district boundaries and in Student's home school, nonetheless that issue bears some scrutiny. Parent asserted that Student could be provided a FAPE and educated at the district's sole middle school, Thurston Middle School, thereby receiving the benefits of a comprehensive general education campus. Parent further asserted that Laguna Beach could cobble together a program at Thurston using district's itinerant service providers and third-party service providers.

Importantly, several factors strongly refute such assertions. First, Laguna Beach administrators White and Moss testified convincingly that a comprehensive general education middle school campus was poorly suited to Student's needs. Student had significant issues with environmental stimuli, consistent with his autism spectrum eligibility. The combination of general noise, announcements, passing bells, an energetic middle school population during passing time and lunch, combined with a significant level of classroom or location changes required throughout the school day rendered Thurston untenable for Student. Student had not attended school on a district or another regular campus since at least prior to Covid. Parent offered no credible explanation for how Student could possibly function in such an environment.

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Second, Student required placement in a small, structured and controlled environment such as Port View. Port View provided small classes with embedded language, behavior and occupational therapy support. Port View had a much smaller student body and had not required moving from classroom to classroom during passing periods. Additionally, Port View had dedicated personnel and facilities on site for speech-language, occupational therapy and adaptive physical education, all of which Student needed.

In sum, Port View provided a FAPE in the least restrictive environment appropriate to meet Student's needs. Laguna Beach had no similar placement on a district campus. Parent failed to prove by a preponderance of the evidence that Laguna Beach denied Student a FAPE by failing to offer Student an in-district placement instead of Port View.

ISSUE 4: DID LAGUNA BEACH DENY STUDENT A FAPE BY OFFERING AN INAPPROPRIATE PLACEMENT BELOW STUDENT'S ACADEMIC ABILITY FROM OCTOBER 5, 2024, THROUGH APRIL 28, 2025?

Student contends that Laguna Beach denied Student a FAPE by offering an inappropriate placement below Student's academic ability from October 5, 2024, through April 28, 2025.

Laguna Beach contends that the placement offered Student in the applicable IEPs was appropriate to address Student's academic abilities.

As discussed, above, in Issue 2, Student failed to present credible evidence at hearing that his academic abilities were other than as characterized by Laguna Beach when designing the IEPs in May 23, 2024, October 21, 2024, and November 6, 2024.

Student was effectively non-verbal, prompt-dependent and prone to significant behaviors triggered by non-preferred activities and or environmental disruptions. Academically, Student was developing emerging skills in reading, writing and mathematics at various levels.

Parent testified at hearing that she thought that Port View was a behavioral school without sufficient academic programs or support. Parent also expressed concern that Student did not have science, history or art specifically mentioned in their IEPs. However, Laguna Beach presented strongly credible and convincing evidence of the academic capabilities and opportunities with the Port View program through the testimony of a series of witnesses from Port View, including Bloch, Port View site administrator Maria Swanson and Port View founder and director Edward Miguel. Port View's witnesses also testified that Student received academic instruction that included science, history and art. Student did not demonstrate that Port View's academic instruction failed to offer Student a FAPE.

Student failed to prove their case by a preponderance of the evidence. In fact, the evidence at hearing strongly supported Laguna Beach's contentions, though Laguna Beach did not bear the burden of proof in this matter. Port View's program was well suited to Student's academic needs and levels. Student failed to demonstrate that Laguna Beach denied Student a FAPE by offering an inappropriate placement below Student's academic ability from October 5, 2024, through April 28, 2025.

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ISSUE 5: DID LAGUNA BEACH DENY STUDENT A FAPE BY FAILING TO COMPLETE AN AUDITORY PROCESSING ASSESSMENT OF STUDENT FROM OCTOBER 5, 2024, THROUGH APRIL 28, 2025?

Student contends that Laguna Beach denied Student a FAPE by failing to complete an auditory processing assessment of Student during the period from October 5, 2024, through April 28, 2025, including an assessment based upon Parent's purported request for same on or after March 12, 2025.

Laguna Beach contends that it offered Student an auditory processing evaluation and that Student refused the offered assessment. Laguna Beach further contends that it adequately evaluated Student's auditory processing and that there was no need for additional evaluation of Student's auditory processing during the period in question.

After a student has been deemed eligible for special education, a reassessment shall be conducted if the district determines that the educational or related service needs, including functional performance of the student, warrant a reassessment, or if the parent or teacher requests reassessment. (20 U.S.C. § 1414(a)(2)(A)(i); 34 C.F.R. § 300.303(a)(1); Ed. Code, § 56381, subd. (a)(1).) In *M.S. by and through Sartin v. Lake Elsinore Unified School District* (9th Cir. 2017) 678 Fed.Appx. 543 (nonpub. opn.)(M.S.), the Ninth Circuit Court of Appeals reviewed a district court decision regarding a school district's obligation to assess between the mandated triennial assessments. The Ninth Circuit held that the local educational agency

"Lake Elsinore had no duty under 20 U.S.C. 1414 (a)(2) to conduct a reevaluation of M.S. because the local educational agency did not determine that reevaluation was necessary, M.S.'s parents did not

request a reevaluation (as M.S. concedes), M.S.'s teacher did not request a reevaluation, and fewer than three years had elapsed since [the previous] evaluation." (*M.S.*, supra, 678 Fed. Appx., at p. 544.)

A reassessment shall occur not more frequently than once a year, unless the parent and the district agree otherwise, and shall occur at least once every three years, unless the parent and the district agree, in writing, that a reassessment is unnecessary. (20 U.S.C. § 1414(a)(2)(B); 34 C.F.R. § 300.303(b) (2006); Ed. Code, § 56381, subd. (a)(2).)

Not all procedural violations are of legal consequence. A due process decision shall be based on substantive grounds based on whether a child received a FAPE. (20 U.S.C. § 1415 (f)(3)(E)(i); Ed. Code, § 56505, subd. (j) [decision cannot be based solely on a non-substantive error unless the error resulted in the loss of an educational opportunity or interfered with parental participation in the IEP process].) A district's failure to conduct appropriate assessments or to assess in all areas of suspected disability constitutes a procedural violation that may result in a substantive denial of FAPE. (*Park v. Anaheim Union High School Dist.* (9th Cir. 2006) 464 F.3d 1025, 1032- 1033.) The failure to obtain critical assessment information about a student, "render[s] the accomplishment of the IDEA's goals -- and the achievement of a FAPE -- impossible." (*N.B. v. Hellgate Elementary School Dist.* (9th Cir. 2008) 541 F.3d 1202, 1210 quoting *Amanda J. v. Clark County School Dist.* (9th Cir. 2001) 267 F.3d 877, 894.)

A procedural violation results in a denial of a FAPE only if the violation impeded the child's right to a FAPE; significantly impeded the parent's opportunity to participate in the decision making process; or caused a deprivation of educational benefits. (20 U.S.C. § 1415 (f)(3)(E)(ii); 34 C.F.R. § 300.513(a)(2) (2006); Ed. Code, § 56505, subds. (f)(2) & (j); *W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960

F.2d 1479, 1484, superseded in part on other grounds by 20 U.S.C. § 1414(d)(1)(B); *L.M. v. Capistrano Unified School Dist.* (9th Cir. 2009) 556 F.3d 900, 910.) The Ninth Circuit has held that a procedural error that causes a loss of an educational opportunity denies a student a FAPE. (*Doug. C. v. Hawaii Depart. of Education* (9th Cir. 2013) 720 F.3d 1038, 1047.) "A procedural error results in the denial of an educational opportunity where, absent the error, there is a 'strong likelihood' that alternative educational possibilities for the student 'would have been better considered.'" (*Id.* at p. 1047, quoting concurring opinion of Judge Gould in *M.L. v. Federal Way School Dist.* (9th Cir. 2005) 394 F.3d 634, 657.)

As discussed below in Issue 7, Parent had made repeated requests for independent education evaluations, particularly for an independent psychoeducational evaluation with Dr. Davidson. Beginning with the IEP team meeting of March 12, 2025, the Parent's requests broadened to include both independent educational evaluations and renewed district comprehensive evaluations.

On or about March 25, 2025, Parent emailed renewed requests for independent educational evaluations and Laguna Beach considered the email to include a request for district evaluations, as well. Read most broadly, the request can be considered to include Parent's request for an auditory processing evaluation.

Laguna Beach promptly responded to Parent on March 28, 2025, with a comprehensive prior written notice letter that addressed any request Parent made for updated evaluations of Student. Thereafter, Laguna Beach prepared a further prior written notice letter, dated April 9, 2025, addressing approximately 46 communications from Parent between March 27, 2025, and April 9, 2025, including further requests by Parent for evaluations. Accompanying the prior written notice letter, Laguna Beach also

sent Parent an Assessment Plan, dated April 9, 2025, offering an auditory processing assessment by an audiologist. Parent refused to sign the Assessment Plan. Further interactions between Parent and Laguna Beach are beyond the scope of this present matter.

Parent failed to present credible evidence that Student requested an auditory processing evaluation by Laguna Beach prior to mid-March of 2025. Parent also failed to present credible evidence that Laguna Beach had reason to believe that such an evaluation was necessary, absent Parent request. To the contrary, District witnesses testified that they had current, accurate and sufficient information regarding Student's needs, including auditory or auditory processing needs, to prepare the IEP offers beginning at least with the 30-day IEP held on November 6, 2024. At hearing, it was established that Laguna Beach responded to Parent's putative auditory processing evaluation request on April 9, 2025, offering that evaluation, along with a series of other district evaluations to essentially conduct an early triennial to refresh information regarding Student. Parent did not consent to the auditory processing assessment.

As such, there is no evidence that Laguna Beach was required to conduct or complete an auditory processing assessment of Student between October 5, 2024, and April 28, 2025.

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ISSUE 7: DID LAGUNA BEACH'S PROCEDURAL VIOLATIONS DENY STUDENT A FAPE BY DENYING REPEATED INDEPENDENT EDUCATIONAL EVALUATION REQUESTS, INCLUDING FAILING TO PROVIDE PRIOR WRITTEN NOTICE OF THE DENIALS, FROM OCTOBER 5, 2024, THROUGH APRIL 28, 2025?

Student contends that Laguna Beach denied Student a FAPE by failing to provide Student with an independent educational evaluation following Parent requests for same during the period from October 5, 2024, through April 28, 2025.

Laguna Beach contends that Student was not entitled to any requested independent educational evaluation during the identified time frame, as the underlying district evaluations were conducted during the period of the settlements and any requests for independent educational evaluations had been waived.

The procedural safeguards of the IDEA provide that under certain conditions, a student is entitled to obtain an independent evaluation at public expense. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502 (a)(1); Ed. Code, § 56329, subd. (b); Ed. Code, § 56506, subd. (c).) "Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question." (34 C.F.R. § 300.502(a)(3)(i).) To obtain an independent educational evaluation, the student must disagree with an evaluation obtained by the public agency and request an independent evaluation. (20 U.S.C. 1415(b)(1); 34 C.F.R. § 300.502(b)(1) and (b)(2); Ed. Code §§ 56329, subd. (b), 56506, subd.

(c.) A parent is entitled to only one independent educational assessment at public expense each time the public education agency conducts an assessment with which the parent disagrees. (Ed. Code, § 56329, subd. (b).)

If a school district decides not to take a requested action, including agreement to the independent evaluation requested by parents, the district must provide parents with a prior written notice within a reasonable time. (34 C.F.R. § 300.503.) The notice must include an explanation of why the agency proposes or refuses to take the action.

The provision of an independent evaluation is not automatic. Title 34 Code of Federal Regulations part 300.502(b)(2) provides, in relevant part, that following the student's request for an independent evaluation, the public agency must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an independent evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to parts 300.507 through 300.513 that an evaluation obtained by the parent did not meet agency criteria.

Student failed to offer evidence that any request by Parent of Laguna Beach for an independent educational evaluation was not related to the multidisciplinary assessment conducted by Laguna Beach in spring 2023. The multidisciplinary assessment was the subject of a waiver of claims under the series of settlement agreements between Student and Laguna Beach. Therefore, any request for an independent educational evaluation arising from the multidisciplinary assessment was waived by Student.

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Parent offered two emails, dated March 28, 2025, and April 24, 2025, in support of Student's contention that requests for an independent educational evaluation had been made between October 5, 2024, and April 28, 2025. Testimony also supported that the topic of independent educational evaluations had been raised at the March 12, 2025 IEP meeting. However, the two emails strongly support the conclusion that the requested independent educational evaluations related to the triennial assessment of spring 2023, completely undercutting Student's contention. Likewise, discussions at the March 12, 2025 IEP meeting were in relationship to the prior triennial assessment, as well as the possibility of further district evaluations.

Laguna Beach presented both testimony and documentary evidence that each request for an independent educational evaluation by Parent was promptly responded to with district prior written notice denying the requests based upon the existing waiver of claims arising from the series of settlements between Student and Laguna Beach. To the extent that it could be argued that Laguna Beach did not respond to one of Student's ongoing, voluminous, often daily, communications with district during spring 2025, there was no evidence that Student was harmed by such an omission. Laguna Beach's position was clear and unambiguous throughout that time frame, and Parent was on notice that Laguna Beach was denying any requested independent educational evaluations due to the waiver of same arising from the settlement agreements.

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As such, the evidence strongly supports the conclusion that Student was not entitled to any independent educational evaluations requested between October 5, 2024, and April 28, 2025. Further, Student failed to prove that Laguna Beach's denial of independent educational evaluations, during the relevant time frame denied Student a FAPE. Student also failed to prove that Laguna Beach had not provided prior written notice of its denial of the evaluations or that any such denial resulted in a loss of educational opportunity, denial of FAPE, or seriously infringed on Parent's participation in the development of Student's IEPs.

CONCLUSIONS AND PREVAILING PARTY

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

ISSUE 1:

The series of Settlement Agreements between Student and Laguna Beach preclude Student's FAPE claims prior to October 5, 2024.

Laguna Beach prevailed on Issue 1.

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ISSUE 2:

Laguna Beach did not deny Student a FAPE by failing to provide Student an appropriate program and services from October 5, 2024, through April 28, 2025, in the areas of:

- a. academics;
- b. auditory;
- c. visual;
- d. goals in the areas of:
 - i. auditory needs;
 - ii. visual needs; and
 - iii. social needs; and
- e. eye tracking accommodations.

Laguna Beach prevailed on:

- Issue 2, subsection a.
- Issue 2, subsection b.
- Issue 2, subsection c.
- Issue 2, subsection d, sub-sub-sections i, ii and iii.
- Issue 2, subsection e.

ISSUE 3:

Laguna Beach did not deny Student a FAPE by failing to offer Student an in-district placement from October 5, 2024, through April 28, 2025.

Laguna Beach prevailed on Issue 3.

ISSUE 4:

Laguna Beach did not deny Student a FAPE by offering an inappropriate placement below Student's academic ability from October 5, 2024, through April 28, 2025.

Laguna Beach prevailed on Issue 4.

ISSUE 5:

Laguna Beach did not deny Student a FAPE by failing to complete an auditory processing assessment of Student from October 5, 2024, through April 28, 2025.

Laguna Beach prevailed on Issue 5.

ISSUE 7:

Laguna Beach's procedural violations did not deny Student a FAPE by denying repeated independent educational evaluation requests, including failing to provide prior written notice of the denials, from October 5, 2024, through April 28, 2025.

Laguna Beach prevailed on Issue 7.

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.

Ted Mann

Administrative Law Judge

Office of Administrative Hearings