BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

CASE NO. 2025080286

DECISION

DECEMBER 1, 2025

On August 7, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request, called a complaint, from Student, naming Bellflower Unified School District as respondent. On September 15, 2025, OAH granted Student's motion to continue hearing dates. Administrative Law Judge Claire Yazigi heard this matter virtually on September 30, October 1, and October 2, 2025.

Attorneys Cheryl Jones, Lisa Shafii, and Sonja Armstrong represented Student. Parent attended all hearing days on Student's behalf. Attorneys Dee Anna Hassanpour and Lucy Nadzharyan represented Bellflower. Attorney Fiona Murphy, from Bellflower's counsel's office, observed the first day of hearing. Matthew Adair, Director of Special Education, attended all hearing days on Bellflower's behalf.

At the parties' request, the matter was continued to October 27, 2025, for written closing briefs. The record was closed, and the matter was submitted on October 27, 2025.

In Bellflower's closing brief, Bellflower requested that Student be sanctioned for Student's alleged failure to pursue Issue 1.b., as set forth below, forcing Bellflower to unnecessarily defend it at hearing. Any motion that a party wished to make must have been made separately and not part of a closing brief. Because the due date for each party's closing brief was simultaneous, Student had no opportunity to address Bellflower's sanctions request. Bellflower's request for sanctions is not addressed here. Further, the findings of this Decision as set forth in the discussion of Issue 1.b., below, renders Bellflower's motion moot.

ISSUES

1. Did Bellflower deny Student a free appropriate public education, called a FAPE, from August 2024, through August 7, 2025, by failing to:
    a. Fulfill it child find duties;
    b. Find Student eligible for special education under the category of Autism;
    c. Assess Student in speech and language, occupational therapy, psychoeducation, and recreational therapy targeting social skills;
    d. Develop an individualized education program, called an IEP, for Student;

e. Ensure Parent's right to meaningful participation in the IEP process by failing to:

   i. Develop an assessment plan within 15 days of an April 23, 2025, IEP team meeting, and

   ii. Provide Parent with a complete copy of Student's educational records pursuant to a May 20, 2025, request?

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).)

Student filed for due process hearing in this matter and had the burden of proof on all issues. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was six years old and in kindergarten at the time of hearing. Student resided within Bellflower's geographic boundaries at all relevant times. At the time of hearing, Bellflower had not found Student eligible for special education services.

ISSUE 1.a.: BELLFLOWER FAILED TO FULFILL ITS CHILD FIND DUTY

Student contends Bellflower should have assessed Student for special education because it had reason to suspect Student had a disability based on: Parental request for special education services made on March 4, 2025; information about an Autism diagnosis that Parent shared with Bellflower on March 4, 2025; and persistent academic deficits reflected on Student's report card.

Bellflower contends that prior to Parent's March 4, 2025, request, it had no reason to suspect Student required a special education assessment. Further, Bellflower contends that at all times from August 2024, through August 7, 2025, Student made progress in the educational environment, exhibited no behavior concerns, and was able to successfully access the general education setting. Bellflower contends that it

rightfully refused Parent's assessment request through prior written notice, because Student had a significant amount of absences that explained her academic struggles, and Student had not yet received school-wide, general education interventions.

Student was enrolled in transitional kindergarten for the 2024-2025 school year, in a Bellflower dual immersion Spanish language program. This meant that the class was taught in Spanish for 90 percent of the school day, and in English the rest of the school day. All subjects were taught in Spanish except for history/social science and science. English was the only language in which Student was fluent.

A local education agency must conduct a full and individual evaluation before the initial provision of special education and related services to a child with a disability. (20 U.S.C. § 1414(a)(1)(A).) Federal law uses the term "evaluation" instead of the term "assessment" used by California law, but the two terms have the same meaning and are used interchangeably in this Decision.

A school district is required to actively and systematically seek out, identify, locate, and evaluate all children with disabilities who are in need of special education and related services, regardless of the severity of the disability, including those individuals advancing from grade to grade. (20 U.S.C. §1412(a)(3)(A); Ed. Code, §§ 56171, 56301, subds. (a) and (b).) This duty to seek and serve children with disabilities is known as "child find." A district's child find obligation toward a specific child is triggered when there is reason to suspect a disability and reason to suspect that special education services may be needed to address that disability. (*Dept. of Education, State of Hawaii v. Cari Rae S.* (D. Hawaii 2001) 158 F.Supp.2d 1190, 1194.) The threshold for suspecting

that a child has a disability is relatively low. (*Id.* at p. 1195.) A district's appropriate inquiry is whether the child should be referred for an evaluation, not whether the child actually qualifies for services. (*Ibid.*)

Either a parent's suspicion or a school district's suspicion may trigger the need for a child find initial evaluation to determine if the student is a child with a disability within the meaning of the IDEA. (20 U.S.C. § 1414(a)(1)(B); *Pasatiempo by Pasatiempo v. Aizawa* (9th Cir. 1996) 103 F.3d 796, 802 (*Pasatiempo*).) The identification of children who may have disabilities should be a cooperative and consultative process. (*Pasatiempo, supra,* at p. 802). As stated in *Pasatiempo*, "Department of Education determinations alone should not be determinative." (*Ibid.*) "The informed suspicions of parents, who may have consulted with outside experts, should trigger the statutory protections." (*Ibid.*) All referrals for special education and related services shall initiate the assessment process and shall be documented. (5 C.C.R. § 3021(a).)

Once a child with a disability is identified, the child must be evaluated and assessed for all suspected disabilities so that the school district can begin the process of determining whether the child is eligible for special education services and what special education and related services will address the child's individual needs. (20 U.S.C. § 1412(a)(7), 1414(a)-(c).) The IDEA's evaluation procedures require the gathering of relevant information regarding a child's functional, developmental and academic functioning, including information provided by the parent. (20 U.S.C. 1414(b)(2)(A).) Once the assessment is completed, the IEP team considers the assessment, as well as evaluations and information provided by the parent, and makes the decision as to whether the child qualifies for special education and what special education services and supports the child needs. (20 U.S.C. 1414(c)(1)(a) and (b).)

Student's transitional kindergarten was on a trimester calendar system. By the end of trimester one, which ended on November 15, 2024, Student could recognize six out of 30 capital letters of the alphabet and five out of 30 lower case letters. Student knew two out of 35 letter sounds. In math, Student did not recognize numbers. Student could count one-to-one correspondence up to 15.

By the end of trimester two, which ended on February 28, 2025, Student's performance on these metrics did not improve. On another portion of the report card, Student earned "satisfactory" marks in history/social science, science, health, art, and technology, which graded Student's effort but not her skills. Shortly after the conclusion of trimester two, Parent made a request for special education assessment.

Parent was direct and forthcoming in her testimony, and presented with sincere affect. Parent persuasively established that, on March 4, 2025, she provided Bellflower a copy of a January 2025 psychological evaluation report of Student conducted by Belle Calkin, Psy.D. Dr. Calkin assessed Student at the request of Harbor Regional Center. Parent also credibly testified that, later that day, and at the behest of Bellflower's school clerk, Parent provided Bellflower a letter requesting an assessment and describing the psychological evaluation report.

The evidence established that Parent had extensive knowledge of Student, who lived with Parent. Parent also had another child with Autism and had experience recognizing its signs. At home, Parent observed Student hand flapping, turning in circles, and standing to stare at the television for extended periods of time. Parent also

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observed that Student would have her hands in a 'bear claw' position. During the Janaury 2025 psychological evaluation process, Parent also shared with Dr. Calkin her observation that Student engaged in

- echolalia,
- inconsistent response to her name,
- social shyness and distrust,
- difficulty with transitions,
- poor impulse control,
- frequent tantrums,
- repetitive behaviors, and
- sensory sensitivities.

Parent shared with Dr. Calkin that Student mouthed objects and was sensitive to loud noises, crowds, and demonstrated clothing aversion. Parent's suspicion of Autism Spectrum Disorder was confirmed by Dr. Calkin's Janaury 2025 psychological evaluation and diagnosis.

During the Janaury 2025 psychological evaluation process, Parent shared with Dr. Calkin her observation that Student engaged in limited reciprocal play and had difficulty sharing and initiating interactions with others. Parent also shared that Student displayed social deficits across various settings, like minimal eye contact, difficulty with transitions, limited verbal communication, and discomfort in new places.

Parent's concerns, while sufficient on their own to trigger an obligation to assess, are further supported by Dr. Calkin's observations as set forth in the Janaury 2025 psychological evaluation. Dr. Calkin's observations are considered here as administrative hearsay, used for the purpose of supplementing and explaining Parent's testimony. (Gov. Code § 11513(d).) Dr. Calkin observed that:

- Student did not participate in age-appropriate reciprocal social interaction;
- Student's interactions with others were limited;
- Student preferred solitary play;
- Student did not understand social cues;
- Student's play was rarely reciprocal; and
- Student's eye contact was inconsistent.

Parent also had concerns regarding Student's speech and language development, as evidenced by Parent's obtaining private speech and language services to address it. Parent's March 4, 2025 letter to Bellflower described Student's significant delays in communication and expressed Parent's belief that Student needed educationally related speech and language services.

Bellflower asserts that it only received Parent's letter and not a copy of Dr. Calkin's January 2025 psychological evaluation report. Bellflower's assertion, even if true, would not change the present analysis. Standing on its own, Parent's March 4, 2025 letter was sufficient to request assessment and notify Bellflower of Student's diagnosis of Autism Spectrum Disorder and accompanying language impairment. The letter communicated that Student experienced significant delays in communication, social interaction, adaptive

behavior, and sensory processing. Parent's March 4, 2025 written request for special education services was an initial request for a special education assessment based on her belief that Student's Autism diagnosis affected Student's ability to access the general education curriculum.

BELLFLOWER'S PRIOR WRITTEN NOTICE DENYING PARENT'S REQUEST FOR A SPECIAL EDUCATION ASSESSMENT

On March 17, 2025, Bellflower provided Parent a prior written notice denying her request for a special education assessment and services. The reasons for the denial were three-fold. First, Bellflower cited Student's excessive absences as a cause for her academic struggles, due to missing critical instruction in English and math. As of the date of the letter, Student had 14 unexcused and nine excused absences. Second, Student had not yet participated in the general education intervention of a student success team before considering special education. Third, Bellflower claimed Student was functioning as a typical student for her age, based on report cards and teacher input.

In this specific matter, none of these reasons for denying Parent's request were persuasive.

STUDENT'S PERFORMANCE

Irma Medina was Student's transitional kindergarten teacher from the beginning of the 2024-2025 school year until Medina went on leave after the first week of January 2025. Medina testified that she did not have any concerns with Student's language skills, fine motor skills, or behavior, and that Student made progress throughout trimester one. Medina opined Student's peer interactions were appropriate for a four-

year-old. Student had no maladaptive behaviors and never needed to be disciplined. Medina saw no reason to refer Student to a student success team or for a special education assessment.

Sylvia Talamantes was also a teacher in the dual immersion program at Student's school, but did not serve as Student's teacher. Instead, Talamantes came to Student's classroom several times a week as an interventionist to assist with general interventions for the entire class, but Student was not one of the children who needed extra support. Like Medina, Talamantes testified that Student's peer interactions were appropriate for a four-year-old. Talamantes did not observe anything that would cause Talamantes to suspect Student had a disability that would impede her learning.

However, the testimony of Medina and Talamantes about the strength of Student's school performance was not persuasive when compared with Student's report card grades and the plain meaning of the term "appropriate progress". The transitional kindergarten marks were not letter grades. The grades available for a transitional kindergarten student, in decreasing order, were "area of strength," "appropriate progress," "area for growth," and "not assessed this trimester."

A substitute teacher replaced Medina when Medina took leave in January 2025. Medina assigned Student's trimester one grades, and the substitute teacher assigned Student's trimester two grades. Medina and the substitute teacher graded Student's reading foundational skills, writing skills, speaking and listening skills, skills in the area of measurement and data, as well as the areas of recognizing numerals to 10 and writing numerals zero-10 as "areas for growth", not "appropriate progress."

If Student had made appropriate progress in trimesters one and two of transitional kindergarten, her teachers would have assigned her that mark. They did not. For example, categorically, and in contrast to other subjects, Student demonstrated appropriate progress in gross and fine motor skills. By contrast, both Medina and the substitute teacher categorically did not find that she was making appropriate progress in reading foundational skills, writing, speaking and listening (aside from understanding and following one- and two-step oral directions), and measurement and data.

Medina testified that, at school, Student engaged in conversations with her peers, expressed happiness around her friends, participated with the rest of the class, and demonstrated reactions appropriate for a four-year-old. Medina's opinion of Student's social ability is not accorded much weight here, given the limited credibility of her testimony.

A student success team meeting was ultimately held on April 23, 2025, after Bellflower had issued its prior written notice refusing assessment and special education services. The student success team, of which Talamantes was a participant, also determined that Student was making "minimal progress" at school, which Talamantes testified meant that Student's progress did not meet benchmark expectations.

Student's participation in a Spanish language dual immersion program does not change the analysis. The evidence established that Medina adapted and created lessons that were age- and developmentally-appropriate to meet the needs of students using dual immersion strategies, yet both Medina and the substitute teacher did not rate Student as making appropriate progress in that context.

In *Timothy O. v. Paso Robles Unified School District*, a school district declined to conduct an Autism assessment of a student based on the informal observations by a school psychologist. *(Timothy O. v. Paso Robles Unified School Dist.* (9th Cir. 2016) 822 F.3d 1105, 1118–1119.) While other district assessors conducted assessments in their respective areas of discipline, the school psychologist stopped by and informally observed the student for 30-40 minutes and did not utilize any assessment tools during the observation. (*Ibid.*) Based on the informal observation, the psychologist determined that no need existed to formally assess the student for Autism because, during the time that the psychologist had stopped by, the student used a variety of facial expressions, displayed emotions, and demonstrated turn-taking. (*Ibid.*) Based on this, the district did not assess the student for Autism. (*Ibid.*) The IEP team did not address any Autism related needs because it believed that the psychologists' informal observation had dispelled any suspicion that the pupil had such a disorder, notwithstanding a provisional diagnosis from the regional center that the student was on the Autism spectrum. (*Ibid.*) The Ninth Circuit stated:

> "The IDEA requires that, if a school district has notice that a child has displayed symptoms of a covered disability, it must assess that child in all areas of that disability using the thorough and reliable procedures specified in the IDEA. School districts cannot circumvent that responsibility by way of informal observations, nor can the subjective opinion of a staff member dispel such reported suspicion." (*Id.* at 1119.)

In the present case, Bellflower failed to refer Student for any special education assessment at all. Here, Bellflower had notice of Student's Autism Spectrum Disorder diagnosis, as well as Parent's suspicion that Student needed special education services. These factors support a finding that Bellflower should have referred Student for an

assessment, notwithstanding the positive observations of Medina and Talamantes. Moreover, despite Medina's retrospective testimony, during Student's first trimester, she identified numerous academic areas as, "areas for growth," rather than, "appropriate progress."

ATTENDANCE

Bellflower cited Student's excessive absences as another reason not to assess for special education. Specifically, Bellflower contends any gaps in Student's foundational skills were due to Student's absences and not because of a disability. As a result, Bellflower argues a referral for a special education assessment was not warranted. Bellflower's contention was not persuasive.

Medina testified that Student suffered both academically and socially upon returning to school after absences. However, a suspicion that Student's academic and social struggles were due to her absences did not relieve Bellflower of its child find obligation to assess whether her struggles also stemmed from a disability. Notice of an Autism diagnosis, coupled with lack of appropriate progress in academic areas, was sufficient to trigger Bellflower's obligation to assess. Bellflower presented no legal authority supporting its position that absences are a factor ruling out the need to assess. Furthermore, Student's absences would have been more appropriately discussed as a factor in determining eligibility for special education instead of a reason not to initially assess. (20 U.S.C. § 1414(b)(5)(A) and (B) (in making a determination of eligibility upon completion of assessments, a child shall not be determined to be a child with a disability due to lack of appropriate instruction in reading or math).)

STUDENT SUCCESS TEAM PARTICIPATION

Bellflower was also unpersuasive in its contention that a special education assessment was not warranted because Student had not yet received general education interventions through a student success team and that a referral for an assessment risked mis-identifying Student as a child with a disability. A school district's pursuit of general education interventions may not be used to unreasonably delay the special education assessment process. (*Johnson v. Upland Unified School Dist*. (2002) 26 Fed.Appx. 689, 690-691 [nonpub. opn.].) A school district may still violate its child find duties by continuing to provide unsuccessful interventions rather than evaluating the child's need for special education and related services. (*Id*.)

Bellflower's emphasis on the importance of allowing Student to progress with typical peers is misplaced. It conflates the duty to assess with an obligation to place a student in the least restrictive environment once the child is found eligible for special education services. Bellflower's prior written notice correctly stated that, "not all students who have a disabling condition such as Autism, require special education as a result of their disability. Some students may have no unique needs that call for special education." Referring Student for assessment, and having eligibility determined by an IEP team, would have more appropriately provided this information. Parent's concerns as expressed in writing to Bellflower on March 4, 2025, Student's Autism diagnosis, and lack of appropriate academic progress, were sufficient to clear the low threshold that triggered Bellflower's child find duty to assess Student to determine whether she was eligible for special education.

Student also pleads the child find violation as a FAPE denial. However, as determined below, Student did not meet her burden to establish eligibility for special education and related services. Therefore, although Bellflower should have assessed Student, the failure to have assessed could not have been a FAPE denial.

This distinction is discussed further in the remedies section.

ISSUE 1.b.: BELLFLOWER DID NOT FAIL TO FIND STUDENT ELIGIBLE FOR SPECIAL EDUCATION UNDER THE CATEGORY OF AUTISM FROM AUGUST 2024, THROUGH AUGUST 7, 2025

Student's closing brief did not contend that she qualified for special education services. However, Student asserts in her complaint that Bellflower failed to find Student eligible for special education under the category of Autism. As of the time of Decision, Student had not withdrawn this issue, and this issue is considered adjudicated.

Bellflower contends that an Autism diagnosis alone is insufficient to establish eligibility for special education, and that Student in particular is not eligible for special education.

Under the IDEA, only some children with certain disabilities are eligible for special education. (20 U.S.C. § 1401(3)(A); Ed. Code § 56026, subd. (a).) For purposes of special education eligibility, the term "child with a disability" means a child with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic

impairments, autism, traumatic brain injury, other health impairments, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (20 U.S.C. § 1401(3)(A)(i), (ii); 34 C.F.R. § 300.8(a).)

Similarly, California law defines an "individual with exceptional needs" as a pupil who is identified by an IEP team as "a child with a disability" pursuant to 20 U.S.C. section 1401(3)(A), who requires special education due to his or her disability, and instruction and services cannot be provided with modification of the regular school program. (Ed. Code § 56026, subds. (a), (b).)

Autism means 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. (34 C.F.R. § 300.8(c)(1).)

Student failed to prove she qualified for special education services under the category of Autism. Bellflower had reason to suspect Student's Autism may require special education services, thereby necessitating assessments, but Student failed to establish that she did in fact require special education services. Student failed to offer any persuasive evidence that her Autism diagnosis adversely affected her educational performance and could not be corrected without special education and related services. Student failed to present any testimony, much less expert testimony, to establish the content of the Autism diagnosis and Student's need for special education services. Parent also did not testify as to her specific concerns regarding Student's Autism and how it affected her educational performance. Parent's suspicion that Student's Autism

was affecting her education was not sufficient to prove that Student was eligible for special education under the category of Autism. Similarly, the January 2025 psychological evaluation on its own, and not substantiated by expert testimony, was also not sufficient to prove that Student was eligible for special education under the category of Autism.

Student failed to prove Bellflower denied her a FAPE from August 2024, through August 7, 2025, by failing to find her eligible for special education under the category of Autism.

ISSUES 1.c. AND 1.d.: BELLFLOWER DID NOT DENY STUDENT A FAPE BY FAILING TO ASSESS HER IN SPEECH AND LANGUAGE, OCCUPATIONAL THERAPY, PSYCHOEDUCATION, AND RECREATIONAL THERAPY TARGETING SOCIAL SKILLS, AND BELLFLOWER DID NOT DENY STUDENT A FAPE BY FAILING TO DEVELOP AN IEP FROM AUGUST 2024 THROUGH AUGUST 7, 2025

Student contends that, by failing to conduct an initial special education assessment of Student in the areas of psychoeducation, speech and language, occupational therapy, and recreational therapy targeting social skills, Bellflower denied Student a FAPE. Student argues assessments in those areas were warranted based on the concerns reported by Parent to Bellflower during the period at issue, and the findings, conclusions and recommendations from the January 2025 psychological evaluation. Student also contends that Student qualified for special education, and that because Bellflower failed to assess Student, it necessarily failed in its obligation to develop an IEP for Student.

Bellflower contends it had no reason to assess Student, since Student did not exhibit any need for special education. Specifically, Bellflower contends Student's trimester one teacher and other Bellflower staff had no concerns about Student's academic performance or behavior, and that Student was never at risk of retention and successfully graduated out of transitional kindergarten at the end of the academic year.

Bellflower further contends that Student did not exhibit any need for special education and, as such, Bellflower was under no obligation to develop an initial IEP for Student.

As determined in Issue 1.b., Student failed to prove her eligibility for special education from August 2024, through August 7, 2025.

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 individualized education program, referred to as 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].)

This obligation, however, only exists when a child is eligible for special education; a child is only entitled to FAPE if eligibility is established. (*R.B. v. Napa Valley Unified School District* (9th Cir. 2007) 496 F.3d 932, 943.) As determined in Issue 1.b., Student failed to prove she qualified for special education services under the category of Autism, and Student did not contend she qualified for special education services under any other eligibility category. Because Student did not establish that she was entitled to a FAPE, Student failed to prove that Bellflower's failure to assess in the areas of psychoeducation, speech and language, occupational therapy, and recreational therapy, was a denial of FAPE. Student also failed to prove Bellflower denied her a FAPE by failing to develop an IEP for her.

ISSUE 1.e.i.: BELLFLOWER DID NOT FAIL TO DEVELOP AN ASSESSMENT PLAN WITHIN 15 DAYS OF AN APRIL 23, 2025 IEP TEAM MEETING

Student contends Bellflower failed to provide Parent an assessment plan within 15 days of an April 23, 2025, meeting. Specifically, Student contends Bellflower offered to formally assess Student in the area of speech and language at that meeting, which triggered Bellflower's legal obligation to develop and provide Parent with an assessment plan. In the complaint, Student characterizes the meeting as an IEP team meeting, but characterizes the meeting as a student success team meeting in Student's closing brief. The evidence established that the April 23, 2025, meeting was a student success team meeting, but this difference does not affect the present analysis.

Bellflower contends that, at the student success team meeting, it made an informal offer for the district speech pathologist to conduct a screening to see if further action was warranted, and that no obligation under the law existed that would require Bellflower to provide Student with an assessment plan within 15 days of such a meeting.

A district must give parent an assessment plan within 15 calendar days of a referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of referral, unless the parent or guardian agrees in writing to an extension. (Ed. Code, §§ 56043, subd. (a); 56321, subd. (a).) The parent has at least 15 days to consent in writing to the proposed assessment. (Ed. Code, §§ 56043, subd. (b), 56321, subd. (c)(4).)

The evidence established that no referral for a special education assessment was made at the April 23, 2025 meeting at school, and no obligation to provide Parent an assessment plan within 15 days arose out of that meeting.

The evidence also established that Bellflower did not make an offer to conduct a special education speech and language assessment of Student at the meeting. Talamantes attended the student success team meeting and served as its notetaker. Talamantes credibly testified that, at the meeting, Bellflower's team members suggested Bellflower's speech pathologist do an informal screening of Student to determine if further action was necessary. Talamantes's testimony was consistent with the meeting notes she took, which referred to the suggestion as a "screening" and not an assessment.

Student failed to establish that the proposed screening was intended by the student success team to initiate an evaluation to determine if Student was a child with a disability, that would have triggered the procedural timelines to offer Parent an assessment plan. Accordingly, Student failed to prove Bellflower denied Student a FAPE by failing to develop an assessment plan within 15 days of an April 23, 2025 student success team meeting.

ISSUE 1.e.ii.: BELLFLOWER DID NOT FAIL TO PROVIDE EDUCATIONAL RECORDS PURSUANT TO A MAY 20, 2025, REQUEST

Student contends that, on May 20, 2025, Student's attorney requested complete records of Student's educational files, and that, at the time of hearing, Bellflower had not yet produced Student's records in their entirety.

Belflower contends that, at all relevant times covered by the complaint, it had met its obligations under the IDEA and denied this allegation. Further, Bellflower contends that this issue should be resolved in favor of Bellflower because Student failed to produce any evidence in support of this allegation at hearing.

California Education Code section 56504 states that a parent shall have the right and opportunity to examine all school records of his or her child and to receive copies within five business days after the request is made by the parent, either orally or in writing.

Student failed to introduce any evidence at hearing regarding Bellflower's alleged failure to provide Parent with a complete copy of Student's educational records pursuant to a May 20, 2025, request. Accordingly, Student failed to prove Bellflower denied her a FAPE by failing to provide Parent with a complete copy of her educational records pursuant to a May 20, 2025, request.

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, SUBSECTION a:

Bellflower failed to fulfill its child find duty from August 2024, through August 7, 2025.

Student prevailed on Issue 1, subsection a.

ISSUE 1, SUBSECTION b:

Bellflower did not deny Student a FAPE from August 2024, through August 7, 2025, by failing to find Student eligible for special education under the category of Autism.

Bellflower prevailed on Issue 1, subsection b.

ISSUE 1, SUBSECTION c:

Bellflower did not deny Student a FAPE from August 2024, through August 7, 2025, by failing to assess Student in speech and language, occupational therapy, psychoeducation, and recreational therapy targeting social skills.

Bellflower prevailed on Issue 1, subsection c.

ISSUE 1, SUBSECTION d:

Bellflower did not deny Student a FAPE from August 2024, through August 7, 2025, by failing to develop an IEP for Student.

Bellflower prevailed on Issue 1, subsection d.

ISSUE 1, SUBSECTION e.i.:

Bellflower did not deny Student a FAPE from August 2024, through August 7, 2025, by failing to ensure Parent's right to meaningful participation in the IEP process by failing to develop an assessment plan within 15 days of an April 23, 2025 meeting.

Bellflower prevailed on Issue 1, subsection e.i.

ISSUE 1, SUBSECTION e.ii.:

Bellflower did not deny Student a FAPE from August 2024, through August 7, 2025, by failing to ensure Parent's right to meaningful participation in the IEP process by failing to provide Parent with a complete copy of Student's educational records pursuant to a May 20, 2025 request.

Bellflower prevailed on Issue 1, subsection e.ii.

REMEDIES

Student seeks a program with appropriate academic services and supports. Student also seeks publicly funded independent educational evaluations in speech and language, occupational therapy, psychoeducation, and recreational therapy. Furthermore, Student seeks compensatory educational services consisting of 40 hours each for academic instruction, speech and language therapy, and occupational therapy.

Bellflower contends Student is not entitled to any remedy.

As determined above, Student did not meet her burden to establish that she qualified for special education, and as a result, was entitled to FAPE. Because Student did not establish a FAPE violation from August 2024 through August 7, 2025, Student is not entitled to any compensatory award for that period. Likewise, Student's request for a special education program with services and supports is also not granted.

Aside from FAPE violations, however, Student did establish that Bellflower should have assessed Student for special education under the IDEA. Student is entitled to initial district assessments. A school district's child find duty to assess students suspected of having a condition eligible for special education is separate and independent from IDEA's requirements to ensure that students with disabilities have available to them a FAPE. (*J.P. and L.P. v. Anchorage School Dist.* (2011) 260 P.3d 285, 294.)

The remedy of an assessment for a district's failure to timely conduct an initial assessment is not dependent on the ultimate determination that the child is eligible for special education. (*Id.* at p. 293.) Any other conclusion would necessarily lead to denials of other rights and would undermine the legislative purpose of the child find and assessment procedures to ensure that all children with disabilities are located, identified and evaluated.

Remedies under the IDEA are based on equitable considerations and the evidence established at the hearing. (*Id.* at p. 374.) This broad equitable authority extends to an Administrative Law Judge who hears and decides a special education administrative due process matter. (*Forest Grove School Dist. v. T.A.* (2009) 557 U.S. 230, 243-244, n. 11 [129 S.Ct. 2484, 174 L.Ed.2d 168].)

Accordingly, the appropriate remedy for Bellflower's failure to conduct an evaluation is an order requiring assessment of all suspected disabilities. Bellflower shall assess Student in all areas of suspected need, consistent with, but not limited to, the findings in this Decision.

Student did not establish a FAPE denial for Bellflower's refusal to assess Student in psychoeducation, speech and language, occupational therapy, and recreational therapy targeting social skills. That conclusion, however, does not mean that these are not required assessments. Bellflower has not yet assessed Student, and will be given an opportunity to do so. Nothing in this Decision shall limit Student's ability under the IDEA and Section 300.502 of Title 34 of the Code of Federal Regulations to request publicly funded independent educational evaluations in the event Parent disagrees with a Bellflower assessment as ordered below. Accordingly, an award for publicly funded independent educational evaluations is not warranted, and therefore, denied.

Student's failure to prove special education eligibility from August 2024 through August 7, 2025, is distinguishable from an affirmative finding that Student is ineligible for special education. An IEP team meeting to review the results of the assessments is necessary to determine Student's eligibility for special education in light of the results of the assessments ordered here.

Student did not sustain her burden of proving Bellflower denied her a FAPE by failing to find Student eligible for special education under the category of Autism, failing to make an IEP offer, and denying Parent meaningful participation in the IEP process. Accordingly, Student's other requested remedies were carefully considered and DENIED.

ORDER

1. Bellflower must develop an assessment plan consistent with the IDEA, Ed. Code, § 56321, and Cal. Code Regs., tit. 5, § 3022. Bellflower, together with Parent, shall identify the areas of Student's suspected disability in developing such an assessment plan.

2. Bellflower shall provide Parent with an assessment plan for a comprehensive assessment of all areas of suspected disability, within five calendar days of the date of this Decision. Parent shall have five calendar days to provide written consent to the assessment. The assessment plan shall be consistent with the findings in this Decision. Nothing in this Decision shall limit the parties' ability to stipulate to additional areas of assessment.

3. Bellflower shall complete the assessments and hold an IEP team meeting within 60 days of Parent's consent to assess, to review the assessments and to determine whether Student is eligible for special education services and supports. The 60-day timeline shall not include school breaks consisting of more than five school days.

4. Nothing in this Decision shall be construed as a finding that Student is not eligible for special education; the findings in this Decision are limited to Student's failure to prove special education eligibility from August 2024, through August 7, 2025.

5. All other 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.

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings