

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CORONA-NORCO UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

CASE NO. 2025030208

EXPEDITED DECISION

APRIL 9, 2025

On March 4, 2025, Corona-Norco Unified School District filed a request for an expedited due process hearing, also called an expedited complaint, with the Office of Administrative Hearings, called OAH, naming Student as respondent. Administrative Law Judge Penelope Pahl heard this matter via videoconference on March 25 and 26, 2025.

Attorneys Summer Dalessandro and Jennifer Aardema represented Corona-Norco. Corona-Norco's Administrative Director, Dawn Rusk, attended all hearing days on Corona-Norco's behalf. Self-represented Parents participated in the hearing, on Student's behalf, on both hearing days.

OAH granted the parties' requested opportunity to submit written closing briefs. The undersigned considered Corona-Norco's written closing arguments submitted on April 4, 2025. Student did not submit written closing arguments.

ISSUES

1. Is returning Student to their prior placement at Foothill Elementary School substantially likely to result in injury to Student or others?
2. Is Corona-Norco's proposal to continue Student's placement at the Intensive Intervention Program at Sierra Vista Elementary School an appropriate interim alternative educational setting for Student for not more than 45 more school days?

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called the IDEA, its regulations, and California special education statutes and regulations. (20 U.S.C. § 1400 et seq.; 34 C.F.R. §300.1 (2006) *et seq.*; Ed. Code, § 56000 et seq.; Cal . Code Regs., tit. 5, § 3000 et seq.) The discipline of special education students, and the procedures related to expedited hearings are governed by United States Code, title 20, section 1415(k), and 34 Code of Federal Regulations, part 300.530, et seq.

The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L. Ed. 2d 387];

Corona-Norco filed the complaint and bore 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).)

At the time of hearing, Student was seven years and three-months old, and in the first grade. Student resided within Corona-Norco's geographic boundaries at all relevant times. Student was eligible for special education under the category of other health impairment due to an attention disorder.

OFFICIAL NOTICE TAKEN OF PRIOR EXPEDITED DECISION

In its Prehearing Conference Statement, Corona-Norco requested judicial notice of the January 28, 2025 Decision in Corona-Norco's prior expedited case. That motion was not ruled on prior to hearing and was renewed on the first day of hearing.

Judicial notice, called official notice in California administrative actions, may be taken of any "generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially noticed by the courts of this State." (Gov. Code, § 11515.) However, "although the existence of a document may be judicially noticeable, the truth of statements contained in the document and its proper interpretation are not subject to judicial notice if those matters are reasonably disputable." (*J.W. ex rel. J.E.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 440, internal citations omitted.)

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Here, on March 26, 2025, official notice was taken of the Expedited Decision in OAH case number 2024120668, dated January 28, 2025. However, as the parties were reminded, official notice does not include acceptance of the truth or accuracy of factual statements in the Decision. Official notice is taken of the existence of the January 28, 2025 Expedited Decision and the order in the Decision.

EXHIBIT SUBSTITUTION

On April 1, 2025, review of District's Exhibit 22, uploaded by Corona-Norco to OAH's online evidence program Case Center, revealed that the November 7, 2024 psychoeducational report by School Psychologist Sarah Davis, was incomplete. It was missing pages 10 and 12 as paginated internally in the report header. That same day, Corona-Norco was ordered to upload a complete copy of the document as their next exhibit in order. Student was offered the opportunity to object in writing if the document was not identical to the report Parents received at the November 7, 2024 IEP team meeting.

On April 2, 2025, contrary to the order's instructions, Corona-Norco substituted a different document as Exhibit 22 in Case Center. That same day Corona-Norco was ordered to follow the original instructions, so an admitted exhibit was not removed without permission. Due to the possible confusion resulting from the need to re-upload evidence, the undersigned extended Student's time to object to the newly uploaded exhibit to April 4, 2025. Corona-Norco re-uploaded the original, previously admitted, incomplete version of Exhibit 22, and uploaded the complete version of the report as District's Exhibit 42 on April 2, 2025.

Student did not file an objection to the District's Exhibit 42. District's Exhibit 42 was admitted into evidence on April 7, 2025. Upon reflection, and contrary to the information in the April 1, 2025 order, the undersigned did not exclude Exhibit 22. Rather, Exhibit 22 was retained as an admitted exhibit for record clarity. District's Exhibit 42 is the complete version of School Psychologist Sarah Davis' "Psychological Case Study Report" dated November 7, 2024.

PROCEDURAL HISTORY

On January 28, 2025, OAH issued an order placing Student in the Intensive Intervention Program at Corona-Norco's Sierra Vista Elementary School for up to 45 school days. The undersigned took official notice of the prior decision on March 26, 2025. Corona-Norco filed this case to continue Student's interim alternative educational placement following the prior order's expiration on April 10, 2025.

ISSUE 1: IS RETURNING STUDENT TO THEIR PRIOR PLACEMENT AT FOOTHILL ELEMENTARY SCHOOL SUBSTANTIALLY LIKELY TO RESULT IN INJURY TO STUDENT OR OTHERS?

Corona-Norco's complaint alleges that placement in an interim, alternative educational setting should be continued. Corona-Norco argues that returning Student to his previous general education classroom would result not only in the danger of injury to staff, peers, and Student, but would also impede Student's ability to access his education, as well as interrupting his classmates' access to education.

During hearing, Parents argued that Student has benefited from the Intensive Intervention Program and asserted that was demonstrated by his improved behavior. Parents contended Student is ready to return to his prior general education classroom.

A school district may file a request for an expedited due process hearing to allow it to assign Student to an interim, alternative educational setting for up to 45 school days on the grounds that maintaining the current placement of the Student is substantially likely to result in injury to the child or others. (20 U.S.C. § 1415(k)(3)(A) and (B); 34 C.F.R. §300.532(a).) School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change in placement is appropriate for a child with a disability who violates a code of student conduct. (20 U.S.C. § 1415(k)(1); 34 C.F.R. § 300.530(a).)

The Administrative Law Judge, also called an ALJ, considering the issues in the expedited hearing may order a change of placement of the student with a disability to an appropriate interim, alternative educational setting for not more than 45 school days if the ALJ determines that maintaining the current placement of the child is substantially likely to result in injury to the student or to others. (34 C.F.R. §300.532(b)(2)(ii).) A school district may file subsequent requests for expedited due process hearings ordering continued placement in an interim, alternative educational setting, for up to 45 additional school days, if it believes that returning the child to the original placement is substantially likely to result in injury to the child or to others. (34 C.F.R. § 300.532(b)(3).)

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STUDENT'S HISTORY OF DANGEROUS BEHAVIOR

Student is a very bright little boy with a limited ability to control his extremely intense emotional outbursts. Significant concerns about Student's behaviors have been documented since at least kindergarten. Student's initial Individualized Educational Program, or IEP, dated February 27, 2024; every IEP amendment through December 6, 2024; and District discipline records through March 6, 2025, detail teachers', school psychologists', and school administrators' descriptions of injurious behaviors observed and, in a number of instances, caused them injury. During the IEP team meeting, Parents shared the school staff's behavior concerns. Student was initially found eligible for special education and related services under the category of "other health impairment" based on his attention deficits.

KINDERGARTEN

The February 27, 2024 IEP, as amended, was operative for the entire time relevant to this case. Student was made eligible for special education and related services when he was six years and two-months old. Student's IEP was primarily focused on helping Student learn to control his behaviors. The IEP included a behavior intervention plan, and a one-to-one registered behavior therapist, to address Student's disruptive and often dangerous behaviors. These behaviors included protesting by flopping, hitting the floor with closed fists, stomping, and whining. He also hit himself with closed fists on his legs, cried, yelled, and refused to follow instructions.

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The behavior plan also addressed physical and verbal aggression, including throwing objects in class; breaking crayons; and destroying property. Student frequently, hit, kicked, scratched, pinched, and bit others. Verbal aggression included yelling threats; screaming; whining loudly; and growling. These behaviors disrupted the classroom, interrupted teaching and impeded Student's, and his peers' ability to access their education. Sometimes Student's uncontrolled behavior episodes lasted in excess of an hour.

The behaviors were unpredictable, but usually triggered by asking Student to do things he did not want to do; or by Student being denied the opportunity to do things or get things he wanted. He had difficulty managing unstructured environments and unpredictable behaviors by his peers. He also used the behaviors to avoid doing things he did not want to do, or to escape situations he did not like. The need for a behavior plan was categorized as "serious."

The behavior plan was developed to teach Student to express his frustration using words that were neither threatening nor offensive; to teach him conflict resolution and other coping skills; and to teach him to ask for breaks when he felt he needed them.

FIRST GRADE – FOOTHILL ELEMENTARY

Student entered teacher Jennifer Skelskey's first-grade general education class on August 13, 2024. Prior to the first day of school, Skelskey was given a pair of Kevlar sleeves to protect her from injuries, due to Student's history of biting and scratching people to the point of drawing blood. His registered behavior therapist who functioned as a full-day, one-to-one aide, also had Kevlar sleeves.

In the approximately 18 weeks from August 13, 2024, to December 20, 2024, Student had at least 14 documented incidents of behaviors that injured others. By the end of December 2024, Student had been suspended 17 days. Multiple witnesses from Student's general education elementary school testified that Student demonstrated extremely disruptive and dangerous behaviors daily.

Between August 13, 2024 and October 28, 2024, Student engaged in the following behaviors that were dangerous to Student and others. Not all incidents reported between the noted dates are included here.

- On August 14, 2024, when directed to return to classroom activities after recess, Student told his behavior therapist that he was going to bring a gun to school the next day and shoot her. He was suspended for three days.
- On August 27, 2024, when told not to poke scissors at his aide's face or wave them around, Student began screaming and overturned his desk, and his aide's desk. When told he would lose his morning recess, he began hitting his aide in the legs and attempted to grab her neck. When the teacher called for support, he began flipping over other students' desks.
- On August 30, 2024, when not offered a "pack paw" slip, Student returned to the classroom and threw his journal at the back cupboard, screaming, and hitting his aide. Pack paw slips were given occasionally to students by lunch monitors for good conduct outside the classroom to obtain small prizes.

- On September 3, 2024, upset when asked to return to schoolwork after recess, Student flung class materials around, picked up his chair and slammed it down, slammed down work materials, waived papers in his aide's face, and loudly protested having to do schoolwork. He also hit his aide in the chest and pulled her shirt down.
- On September 4, 2024, Student was suspended for two days after hitting his aide, scratching her in the chest, and trying to stab her in the leg with a pencil when he was asked to start classwork again following the end of an indoor recess on a rainy day.
- On September 13, 2024, again, upset at an indoor recess ending, Student pushed, hit, and scratched his aide, the assistant principal, the security guard, and the board certified behavior analyst who supervised the behavior aide. Student told the assistant principal, "I want to kill you." When they were able to remove Student from the classroom to the assistant principal's office, he began sweeping things off the counters and breaking them. When the principal came in to investigate the noise, Student dug his nails into the principal's arm, drawing blood, and leaving a scar. Student was suspended for three days. This conduct occurred on the same day a manifestation review meeting was held to address Student's last suspension generating behavior.

- On October 11, 2024, angry that another student had reported Student sticking his tongue out at him, Student chased the peer down on the playground, in front of playground supervisors, and succeeded in getting around an adult trying to shield the peer, to hit the peer twice.
- On October 14, 2024, reacting to being denied the opportunity to join a class activity due to an already dysregulated state, Student threw items off a table in the office, dumped over a mini-fridge, and dumped trash onto the floor.
- On October 22, 2024, Student's uncontrolled classroom behavior included lifting a chair over his head to throw it; eloping from the class; and biting his aide. Upon being taken to the office, angry at being denied the ability to eat lunch in the cafeteria because of his dysregulated state, Student hit, kicked, and used his nails to scratch the security guard and assistant principal with an intent to hurt them.
- On October 28, 2024, angry at being asked to do schoolwork, Student threw two halves of scissors across a table and nearly hit another child in the face.

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BEHAVIOR IMPACT ON STUDENT'S FIRST-GRADE CLASSMATES

Student's behavior incidents could last an hour or more. Skelskey described the fear the other children demonstrated when Student's uncontrolled behavior began. She said several children ran to her side. Others froze in place because they did not know what to do. Some ran to another part of the classroom to get away from Student. Some called out to Student, pleading with him to stop what he was doing. However, Skelskey described the incidents unfolding as if a "switch had been turned on" in Student. He appeared unable to hear people and no longer in control of his actions. Pearson described Student being in a "red zone," the red describing his anger. When in the "red zone," it seemed as though Student was in a tunnel and unable to be reached. On more than one occasion, the classroom had to be evacuated because Student could not be controlled, and the other students were in danger.

FURTHER PSYCHOEDUCATIONAL TESTING RESULTS

During a September 13, 2024 IEP team meeting, Parents agreed to a psychoeducational assessment to explore emotional disability as an additional basis for special education and related services due to Student's continued extreme outbursts and the injuries he caused. Corona-Norco IEP team members recommended initiating school-based counseling for Student prior to the completion of the assessment. Parents did not consent to initiating counseling prior to assessment completion.

School Psychologist Sarah Davis conducted additional assessments of Student in October and early November of 2024 due to concerns about Student's continued uncontrolled outbursts, and injuries to school staff and peers. Between October 18,

2024, and November 4, 2024, Davis observed Student on five different, non-consecutive days, at different times of day, and during different school activities. In total, Davis observed Student for a total of approximately three and a half hours. During that time, Davis noted Student:

- Being unable to stay in class for the full time between breaks for recess or lunch; and asking for another break immediately upon returning to the classroom after a prior break;
- Refusing to rejoin the class after recess and lunch;
- Disrupting the class by turning his computer to a loud volume when he did rejoin for a short time;
- Banging his head on his desk when his classmates did not respond to his disruption of asking them for their McDonald's orders when told to use headphones with his computer;
- Moving his chair back and forth across the carpet during class-wide instruction;
- Eloping from class after screaming; and
- Climbing on tables and refusing to sit in chairs.

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In addition to observing Student, Davis reviewed the February 2024 psychoeducational assessment and collected rating scales related to Student's social emotional functioning from Parent and Teacher. Davis collected rating scales for the Behavior Assessment System for Children, third edition; the Connors fourth edition; and the Scales for Assessing Emotional Disturbance, third edition, which was completed only by Skelskey.

The three assessment instruments showed very similar results. All assessments showed the raters had very high to the highest levels of concerns regarding Student in the areas of:

- Aggression;
- Hyperactivity and distractibility;
- Conduct problems, including rule breaking behavior and being disruptive, loud, rowdy;
- Anxiety and depression;
- Defiance of authority;
- Inability to work well in groups, independently complete work, or complete homework as expected;
- Threats, verbal abuse, teasing, and taunting, physical assaults or fighting others, both peers and adults;
- Not considering the consequences of his actions;
- Vandalizing property;

- Being overly sensitive; and
- Lacking necessary skills to be friendly and sociable.

Davis presented her findings regarding Student's psychoeducation assessment at Student's November 7, 2024 annual IEP team meeting. Following the discussion of Davis' assessment, the Corona-Norco members of Student's IEP team agreed Student was eligible under the category of emotional disability. Other health impairment was to be maintained as a secondary eligibility category. Corona-Norco offered placement in Sierra Vista's Intensive Intervention Program to focus on teaching Student to control his behaviors. Parents did not consent to the November 7, 2024 IEP.

Student had a number of additional dangerous behavior incidents following the November 7, 2024 IEP team meeting. On November 13, 2024, Student returned from recess in a dysregulated state. He pushed a peer aggressively into the door. Brenda Pearson, Foothill's Principal, and the person in charge of discipline in the school, was called for support and the other students were evacuated from the class. Student was removed from the class into the hallway. Believing Student was calming down, Pearson sat down on the stairs to talk to him. Student ran at her and raked his nails across her face, scratching her eyelid. He pulled her hair. Pearson, an educator with 32 years of experience, described herself as "shaken to the core." Ultimately, three other staff members were needed to control Student.

On December 2, 2024, Student was already dysregulated because he did not want to do his work. He was pounding his fists on his desk and ran across the room and punched a peer in the head twice with a closed fist. That child went to the nurse. The escalation then grew more serious. Student was upset that his primary aide was not

leaving for lunch. He began throwing pencils at the teacher and in the classroom. He then began raising chairs above his head and throwing them across the room, hitting and kicking his backup aide who had come in to relieve his primary aide for lunch, and yelling at his aide that he hated her and was going to kill her. The other students were evacuated. When Skelskey returned to the classroom after Student had been removed, the back panel of the cubbies was ripped off, number magnets were ripped into pieces, students' tables, tubs, and pencil boxes were dumped and mixed into a pile on the floor, and all items on the back counter had been swept onto the floor. Those items had to be picked up and Student's belongings separated which took time away from instruction. The child who was hit in the head was too scared to return to school the next day.

On December 20, 2024, the day before Corona-Norco's Winter break began, Student was on the playground. His goodie bag tore and, as students passed by, he threatened to punch them. Pearson tried to calm Student, allowing him to go on the swings as he requested. However, when given permission, he would not get on the swings. The principal squatted down, and Student hit her in the head with a small plastic water bottle, resulting in Pearson losing her balance. The security guard, Mr. Cameron, picked up the bag, which had been dropped. When Student ran at Cameron, he proceeded to the calming room followed by Student, who was trying to grab the bag. Pearson accompanied them. When they reached the calming room, Pearson looked away from Student when calling the office on her cell phone, at which time Student punched Pearson in the face, causing bleeding and pain so severe it caused Pearson to cry. Pearson thought her nose was broken, but Student had actually hit her upper face and eye causing a gash. Pearson left the room to call Parents to ask for Student to be picked up. When Pearson returned, Student had found a dowel used to block windows and hit Cameron with it. Additional support had to be called.

Not all of the incidents reported between the November 7, 2024 IEP team meeting, and the end of December 2024, are listed. Student was suspended 17 days between the beginning of school in August, and the end of December 2024. In addition to the incidents for which he was suspended, Student exhibited behavior on several occasions that, while serious, did not result in suspension. Pearson explained that she really tried to avoid suspensions when she could. Pearson said Student was particularly difficult to control due to the frequency, duration, and unpredictability of his outbursts. Pearson estimated that she spent fifteen hours per week or more dealing with Student's behavior issues. Other administrators, including the assistant principal, school psychologist, and security guard, spent similar numbers of hours working to control Student's conduct, detracting from time needed for their other duties.

Parents objected to consideration, in this expedited case, of the incidents considered in the first expedited case. Parents argued that Student should not be held responsible indefinitely for his prior conduct. Parents also argued that he has now learned coping strategies, so the conduct he exhibited in his general education first-grade class did not reflect his current behaviors.

Those objections were overruled. The persistence and severity of the behaviors, despite the interventions attempted at Foothill, impact the undersigned's determination of the level of need demonstrated, and the reasonableness of continuing the Intensive Intervention Program placement. The incidents that occurred in Skelskey's classroom were recent. They took place between two and a half months and six and a half months ago. The fact that Student was already exhibiting a lack of ability to self-regulate in kindergarten, and that his tendency towards injurious behaviors increased over time, are both important pieces of information to understand Student's current needs.

Skelskey expressed grave concern about Student returning to her class after only 45 school days in the Intensive Intervention Program. Her class has 17 other students. She and her one paraeducator are the only staff members assigned to the class. Neither of them have been specially trained in managing the level of behavior deficits Student demonstrates. At one point in her testimony, near tears more than a month and half after Student left her classroom, Skelskey described worrying about her ability to keep her students, including Student, safe in the classroom when Student was present. She described feeling as if she was failing the parents' trust in her to keep the children safe because she did not know what more she could do to help Student control himself. Skelskey did not believe Student could learn to control his emotions and angry reactions in 45 school days. In her opinion, the bad habits were too engrained. This opinion was shared by Principal Pearson, and School Psychologist Davis.

FIRST GRADE – INTENSIVE INTERVENTION PROGRAM

Pursuant to OAH's order in the January 28, 2025 Expedited Decision, Student began attending the Intensive Intervention Program at Sierra Vista Elementary School on February 4, 2025. Student continued to have the same registered behavior aide who worked with him in his prior elementary school. By the date School Principal Kari Burns, testified in this hearing, Student had been enrolled in the program for 35 days.

Principal Burns handles all disciplinary procedures for Sierra Vista. The school serves general education students in grades K through six, and three classrooms of elementary school, intensive education students. Burns explained that not all dysregulated behaviors of intensive intervention students are noted in the district's discipline records. The Intensive Intervention Program has its own daily point sheet to document the behaviors the program's students are enrolled to learn to control.

The Intensive Intervention Program is based on the Boys Town social skills development system. The Boys Town positive behavior intervention system teaches 16 social skills by focusing on one skill per week along with the associated behaviors needed to master the skill. The system is taught campus-wide; however, only Intensive Intervention Program participants engage in the daily points tracking system.

The Boys Town point sheets note when students earn points for implementing the skills and behaviors they are learning. Points can be used for prizes and treats in the Boys Town store. The sheets also note when a student is penalized for exhibiting unacceptable behaviors. Parents are required to sign off on the point sheets each evening, so they are informed of the student's conduct each day. Students are expected to return the signed point sheets the following school day.

Serious behaviors that threatened Student's or others' safety, or that caused injury, were tracked in the Corona-Norco district discipline referral system, on the "Detail Behavior" report. They may also be reported on the points sheet. Burns emphasized that not all behaviors that would be unacceptable in a general education class are noted on an intensive intervention student's Detail Behavior report, as the Sierra Vista staff understands that students in the Intensive Intervention Program have behaviors. Only very serious incidents are included in the Detail Behavior report.

Student received his first discipline referral at Sierra Vista on February 12, 2025. This was six school days after he began attending the Intensive Intervention Program. On this day, frustrated by a math assignment, Student slapped his behavior aide's face and eloped from the classroom. He was unfamiliar with the campus, so he did not get very far from his classroom. His behavior aide followed him. The aide asked Student to

return to the classroom, which he did. However, Student, on returning to class, kicked a trashcan and threw things off the teacher's desk. Burns was radioed for support. She and Student's aide escorted Student to the calm down room. There, de-escalation techniques were employed, followed by corrective teaching strategies. Corrective teaching involved discussing the progression of events and other choices that could have been made, integrating the Boys Town behavior approach into the conversation. At the conclusion of the discussion, Student returned to his desk.

On February 21, 2025, Student engaged in his second major incident at Sierra Vista. This was six school days after the first incident. Student became overstimulated during a school-wide assembly for the American Heart Association. People were jumping rope and music was playing. Student felt crowded by another child and began making aggressive gestures towards his peers. Student's aide and another paraeducator asked him to make more space around himself. He rejected the offer of a walk from his aide but accepted going back to the classroom. Once there, however, he kicked a cabinet and pulled the fire alarm. The loud noise startled him, and he stopped. Staff got the alarm turned off and Student walked to the calm down room. Staff members engaged in corrective teaching and talked Student through other choices that could have been made. This happened at the end of the day so, once deescalated, he was able to gather his things and get on the bus to go home.

Student's third incident was eight school days after the assembly, on March 5, 2025. This incident occurred at the end of the day, when Student was on his way to the Boys Town store to redeem his points. The store is located in the classroom next door, so there are behavior expectations when redeeming points. Student began screaming

loudly, so his aide told him they would have to return to their own classroom. He started screaming again, and the aide reiterated the expectation. On the aide's third attempt to redirect him, Student pushed the aide and eloped. His aide and another staff member followed him. One of the Sierra Vista counselors, not associated with the Intensive Intervention Program, saw him running and asked if he would hold her hand as they walked back to class. His aide held his other hand. As they began walking, he bit the counselor on the wrist and held on with his teeth. He broke the skin but would not release the counselor's wrist. He also began kicking her and using racially pejorative and profane language. Staff members had to employ a Crisis Prevention Institute hold and team transport, a last resort intervention. Ultimately, Student accepted the option to walk to the calm down room. They discussed the incident using the system's corrective teaching strategies and explained why he was not allowed to go to the store, which he accepted. He received a point deduction, and he apologized to the staff. When he was ready, he was dismissed to the bus.

In response to Parent's questioning at hearing, , Burns directly and unequivocally explained why Student was not ready to return to his prior general education class at the conclusion of the initial 45 school day interim, alternative education referral. Burns described Student as just beginning to learn the social skills and de-escalation process taught in the Intensive Intervention Program. She noted that, although the duration of Student's behaviors had decreased, they still occurred. She acknowledged improvement compared to reports from his prior elementary school placement. However, she said he still exhibits dysregulation and behaviors not seen in general education classrooms, including hitting others. Those were in addition to the major incidents, which have occurred approximately every week and a half since he started in the Intensive Intervention Program.

Parents asked every witness who testified whether Student was ready to return to his prior general education classroom. Each witness explained that the intensity and frequency of Student's behaviors indicated his conduct was engrained, and he would need time to learn self-control. Despite these answers, Parents believed Student could return to his prior general education classroom. Parents offered no evidence that Student was currently able to consistently control his behaviors. Nor did they offer expert testimony supporting a conclusion that Student would be able to self-regulate were he returned in his prior general education class.

Foothill employees lack the training and staffing to teach Student to control the conduct he has exhibited so far this year at both Foothill and Sierra Vista. The much higher student-to-adult ratio in the regular general education class meant that Foothill did not have adequate staffing to focus on Student to the degree necessary to consistently implement regimented disciplinary routines like those in the Intensive Intervention Program.

For example, at the Foothill placement, Davis observed Student being allowed to bargain to extend his breaks, despite the fact that, he was out of the classroom more than he was present. In one instance, Student asked to go to the office before morning recess to get Oreos from the office because he "had completed some morning work." Pearson, who kept a drawer of snacks for Student, was not in the office, so his aide took him to the playground. Student was offered either a four or five-minute break in an effort to give him decision-making power. Student said he wanted "a hundred million minutes." Next, he asked when he would be going home, and he was told 11:30 a.m. He then said he wanted to stay on the swings until 11:30. When that was refused, the aide again asked whether it would be four or five minutes and after Student proposed

10, they settled on six minutes and 32 seconds. The evidence did not include the length of time the bargaining took. However, there is no indication that the time during which he did not cooperate was deducted from his break. When it was time to go back in, Student resisted. It took several redirection efforts to get him back into the classroom, at which point he had been out of class for 20 minutes.

Principal Pearson believed that Student, who everyone acknowledges is extraordinarily bright, was learning to manipulate the available disciplinary system at Foothill. Pearson saw staff members engage in bargaining and make decisions to avoid Student becoming upset, rather than consistently enforcing expectations. Pearson believed staff appeased Student to avoid escalated dysregulation that would require multiple staff members or threaten injury to staff or students. Pearson described it as "tiptoeing around him to keep people safe." At Foothill, Student's behavior issues escalated in frequency and intensity. Skelskey explained that, ultimately, Student's behavior incidents resulted in him being in class working approximately 20% of the school day.

In contrast, Sierra Vista implemented a consistent approach to managing Student's behaviors. When Student becomes disruptive, he is removed from the class, and de-escalation techniques are employed, followed by corrective teaching. Corrective teaching consists of an interactive process, generally with two to three staff members. Staff reviews what happened with Student, and discusses alternate choices Student could have, and should have, made.

The Intensive Intervention Program has the staffing and specialized training to consistently implement the focused behavior modification program. Each class has a maximum of 10 students with a teacher and four specially trained paraeducators. Any

one-to-one aides assigned to a particular student, such as Student's aide, increases the adult-to-student ratio in a classroom. All aides assigned to a particular student are registered behavior therapists. As of the hearing date, none of the Intensive Intervention Program classes were at maximum capacity. All teachers on Sierra Vista's campus have training in both the Boys Town system and the Crisis Prevention Institute's approach to managing students in a highly dysregulated state, who require hands-on intervention to prevent injuries to the student, peers, and staff.

In addition to the Boys Town social skills program, intensive intervention classes receive group therapy every week. Students whose Parents consented to individual counseling in their IEPs also receive that counseling.

Burns described the Intensive Intervention Program's process for returning to a regular general education class, as a gradual introduction to ensure success. When the IEP team believes data demonstrates students are ready, general education reintegration begins in a class student prefers. Readiness is demonstrated by a student's ability to work in the Intensive Intervention Program class without exhibiting behaviors that would be unexpected in a general education classroom. Students are slowly integrated into the preferred class, with increased time as a student's ability to self-regulate becomes consistent. The goal is to have intensive intervention students move back, full-time, into a general education class without requiring as much support as they did before they were placed in the Intensive Intervention Program. Students also have the option of joining Sierra Vista's general education program as many have made friends and been successful.

Student has not demonstrated the ability to consistently control his explosive outbursts. Not only are these outbursts dangerous and scary to other children in the room, they are dangerous and scary to this Student who, despite his exceptional intelligence, appears to lack an understanding of how to stop himself from behavior he regrets. That regret and fear was expressed at different times to his aide, to School Psychologist Davis, and to Principal Pearson.

The evidence established that Student has not yet demonstrated he has mastered the ability to control himself adequately to make his return to his prior general education classroom safe, either for himself or for others. This is evidenced by the frequency of major incidents in just the first 35 days of the Intensive Intervention Program; and the continued incidents of behaviors that would be considered outside the range of behaviors expected of a general education student. Additionally, Student's long history of extreme, injurious behaviors is evidence of an engrained pattern of inability to control his emotions and actions when he is angry or disappointed. Student needs more time to learn the self-control strategies the Intensive Intervention Program offers.

Parents submitted no evidence supporting Student's ability to return to his prior general education classroom other than their own conclusory statement that Student is now well-behaved, and the program has "done its job." Parent acknowledged telling Corona-Norco, prior to hearing, that she did not have an issue with Student remaining in the Intensive Intervention Program. However, Parent conditioned her approval on Student's preference. Parents did not appear to grasp the severity of Student's conduct,

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or danger posed by it. This conclusion was supported by the fact that Parents have never consented to Student receiving the individual counseling recommended in his IEP. Parent's opinion regarding Student's readiness to return to his prior general education classroom was given little weight.

All other evidence established Student's continuing inability to control his emotions or actions with the resulting substantial likelihood of injury to himself, peers or school staff. Student's lack of self-control and injurious behaviors continue and are very concerning. They have been occurring since he was at least five years old. Without the opportunity to learn self-control, the kinds of behaviors he has exhibited since August of 2024 could result in much more dire consequences than a change of schools when he is older.

Student's continued inability to control impulsive, often dangerous behavior, when frustrated, anxious or upset constitutes grounds to continue Student's placement in an interim, alternative educational setting. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) and (b)(2)(ii) and (b)(3).)

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ISSUE 2: IS CORONA-NORCO'S PROPOSAL TO CONTINUE STUDENT'S PLACEMENT AT THE INTENSIVE INTERVENTION PROGRAM AT SIERRA VISTA ELEMENTARY SCHOOL AN APPROPRIATE INTERIM ALTERNATIVE EDUCATIONAL SETTING FOR STUDENT FOR NOT MORE THAN 45 MORE SCHOOL DAYS?

A child with a disability who is removed from the child's current placement to an interim, alternative educational setting must continue to receive:

- educational services, to enable the child to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and,
- as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not recur. (20 U.S.C. § 1415(k)(1)(D)(i) and (ii); 34 C.F.R. § 300.530(d)(1)(i) and (ii) (2006).)

The Intensive Intervention Program at Sierra Vista Elementary meets Student's academic needs, and the statutory requirements that he be provided with behavior intervention to remediate his behavior violations. The Intensive Intervention Program follows the same general education curriculum as the other classes at Sierra Vista Elementary School. The school follows district-adopted curriculum aligned with state elementary school standards. Student's Intensive Intervention Program class does not modify the curriculum. Student is being taught the curriculum for his grade level in a classroom setting where his peers are also capable of working at grade level.

The curriculum provided in the Sierra Vista Intensive Intervention Program allows Student to progress towards meeting his IEP goals, which include behavior and math. As previously described, the purpose of the Intensive Intervention Program is to provide behavioral intervention services that teach Student alternatives to the disruptive and dangerous behavior choices he currently makes. The goal is to teach Student to make choices that eliminate injuries to others and to himself, and the loss of educational access for both Student and his general education classmates. If Parents consent, Sierra Vista's Intensive Intervention Program is able to offer Student individual counseling as offered in his November 7, 2024 IEP. Both Foothill and Sierra Vista staff believe individual counseling would help Student in his pursuit of learning self-control.

Corona-Norco proved that Sierra Vista Elementary School's Intensive Intervention Program meets the statutory requirements of an appropriate, interim, alternative educational setting.

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:

Returning Student to his prior placement at Foothill Elementary School is substantially likely to result in injury to Student or others.

District prevailed on Issue 1.

ISSUE 2:

Continued placement in the Intensive Intervention Program at Sierra Vista Elementary School is an appropriate interim alternative educational setting.

District prevailed on Issue 2.

ORDER

1. Corona-Norco may continue Student's placement in the Intensive Intervention Program at Sierra Vista Elementary School as an interim, alternative educational setting for up to 45 additional school days.
2. The 45 additional school days allowed shall begin April 11, 2025. This is the day following the expiration of the January 28, 2025 order granting placement for up to 45 school days in an interim, alternative educational setting.

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.

PENELOPE S. PAHL

Administrative Law Judge

Office of Administrative Hearings