

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

SONOMA VALLEY UNIFIED SCHOOL DISTRICT.

CASE NO. 2025090701

DECISION

February 6, 2026

On September 19, 2025, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Sonoma Valley Unified School District, called Sonoma Valley. On October 1, 2025, OAH granted the parties' joint request for continuance. Administrative Law Judge Jennifer Kelly heard the matter via videoconference on November 25 and 26, and December 2, 3, and 9, 2025.

Attorney Natashe Washington represented Student. Attorney Veronica Lau attended the due process hearing on November 25, 2025, on behalf of Student. Parent attended all hearing days on Student's behalf. Student did not attend any hearing days. OAH provided a Spanish language interpreter for Parent during all hearing days.

Attorney Elizabeth Schwartz represented Sonoma Valley. Troy Knox, Director of Special Education for Sonoma Valley, attended all hearing days on Sonoma Valley's behalf.

At the parties' request, OAH continued the matter for written closing briefs. The record was closed, and the matter was submitted on December 29, 2025.

## ISSUES

An individualized education program is called IEP. A free appropriate public education is called FAPE.

1. Did Sonoma Valley deny Student a FAPE during the 2023-2024 school year by:
  - a. awarding Student a high school diploma and graduating Student; and
  - b. terminating Student's special education and related services at the May 28, 2024 IEP team meeting?
2. Did Sonoma Valley deny Student a FAPE during the 2023-2024 school year in IEPs dated October 13, 2023, December 13, 2023, and May 24, 2024, by failing to offer:
  - a. an appropriate transition plan;
  - b. appropriate transition goals; and
  - c. appropriate transition services?

3. Did Sonoma Valley deny Student a FAPE by failing to consider an independent transition evaluation at IEP team meetings held on October 13, 2023, and/or November 13, 2023?
4. Did Sonoma Valley deny Student a FAPE during the 2023-2024 school year by predetermining its decision to award Student a high school diploma and terminate her special education and related services at IEP team meetings held on October 13, 2023, December 13, 2023, and/or May 28, 2024?

## JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called 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 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 the due process complaint and had the burden of proof by a preponderance of the evidence. 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 19 years old at the time of the hearing. After Student turned 18 years old, she assigned her decision-making authority to Parent on September 15, 2025, regarding her entitlement to a FAPE, including the right to pursue special education due process proceedings.

Student resided with Parent within Sonoma Valley's geographic boundaries at all relevant times. Student received her regular high school diploma from Sonoma Valley in May 2024, graduating with a grade point average of 3.22. Student was eligible for special education and related services since 2008, and at all relevant times was eligible under the categories of autism and speech or language impairment.

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## ISSUE 1a: DID SONOMA VALLEY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY AWARDING STUDENT A HIGH SCHOOL DIPLOMA AND GRADUATING STUDENT?

Student contends that Sonoma Valley denied her FAPE by awarding Student a regular high school diploma and graduating Student in May 2024. Student contends she failed to meet Sonoma Valley's requirements for a regular high school diploma. Student argues that during the 2020-2021 school year, Sonoma Valley's graduation requirements included completion of courses in geometry and living skills and Sonoma Valley violated its policy by awarding Student a diploma because she did not complete these courses. Student contends her curriculum was heavily modified and Student had severe functional, academic, and vocational deficits and was not ready for postsecondary education, employment, or independent living.

Sonoma Valley contends that Student met all high school graduation requirements, earned her regular high school diploma, and was properly exited from special education. Sonoma Valley further contends that geometry and living skills were not required courses for graduation at the time Student graduated in May 2024, and Student satisfied all general education courses without a modified curriculum.

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); 34 C.F.R. §§ 300.320, 300.321, and 300.501; and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a).) The IDEA and California special education law provide that children with disabilities have the right to a FAPE that

emphasizes special education and related services designed to meet their unique needs and to prepare them for employment and independent living. (20 U.S.C. § 1400(d); Ed. Code, § 56000.)

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

Special education is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(29); 34 C.F.R. § 300.39; Ed. Code, § 56031.) Related services are transportation and other developmental, corrective, and supportive services that are required to assist the child in benefitting from special education. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a) [in California, related services are also called designated instruction and services].)

An IEP is a written statement for each child with a disability that is developed, reviewed, and revised based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); 34 C.F.R. § 300.320; Ed. Code, § 56032.) The IEP must include a statement of the child's present levels of academic achievement and functional performance. (20 U.S.C. § 1414(d)(1)(A); 34 C.F.R. § 300.320(a)(1); Ed. Code, § 56345, subd. (a)(1).) An IEP must contain a statement of the special education and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that

will be provided to enable the student to advance appropriately toward attaining the annual goals and to be involved in and make progress in the regular education curriculum and participate in nonacademic activities, and to be educated and participate with other individuals with exceptional needs and nondisabled pupils. (20 U.S.C. § 1414(d)(1)(A)(i)(IV); Ed. Code, § 56345, subd. (a)(4).)

In developing the IEP, the IEP team shall consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial evaluation or most recent evaluation of the child, and the academic, functional, and developmental needs of the child. (20 U.S.C. § 1414(d)(3)(A).) For each area in which a special education student has an identified need, the IEP team must develop annual goals that are based upon the child's present levels of academic achievement and functional performance. (Ed. Code, § 56345, subd. (a)(2); *Letter to Butler* (United States Department of Education Office of Special Education and Rehabilitative Services (OSERS) (March 25, 1988).)

To determine the contents of an IEP, a student eligible for special education under the IDEA must be assessed in all areas related to the student's suspected disability. (20 U.S.C. § 1414 (a)(1), (2) & (3); 34 C.F.R. § 300.304(c)(4); Ed. Code, § 56320.) School district evaluations of students eligible for special education under the IDEA help IEP teams identify the special education and related services the student requires. (20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.303, 300.324(a)(1); Ed. Code, § 56341.1.)

There are two parts to the legal analysis of a school district's compliance with the IDEA. First, the tribunal must determine whether the district has complied with the procedures set forth in the IDEA. (*Rowley, supra*, 458 U.S. at pp. 206-207.) Second, the tribunal must decide whether the IEP developed through those procedures was

designed to meet the child's unique needs and was reasonably calculated to enable the child to receive educational benefit appropriate in light of the child's circumstances.

(*Ibid.*; *Andrew F.*, *supra*, 137 S.Ct. at p. 1000.)

An IEP is evaluated in light of the information available to the IEP team at the time it was developed; it is not judged in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149 (*Adams*)). "An IEP is a snapshot, not a retrospective." (*Id.* at p. 1149, citing *Fuhrmann v. East Hanover Bd. of Education* (3d Cir. 1993) 993 F.2d 1031, 1041 (*Fuhrmann*)). Whether a student was denied a FAPE is evaluated in terms of what was objectively reasonable at the time the IEP was developed. (*Adams, supra*, 195 F.3d at p. 1149.)

## CALIFORNIA REQUIREMENTS FOR GRADUATING WITH A REGULAR HIGH SCHOOL DIPLOMA

The federal regulations implementing the IDEA require that school districts provide FAPE to children with qualifying disabilities until age 22. (34 C.F.R. § 300.101(a).) This obligation, however, does not apply where the disabled student has "graduated from high school with a regular high school diploma." (34 C.F.R. § 300.102(a)(3)(i); see also Ed. Code, § 56026, subd. (c)(4).) A pupil with exceptional needs who has met all state and school district requirements and graduates from high school with a regular diploma is no longer eligible for special education and related services. (34 C.F.R. § 300.102(a)(3)(i); Ed. Code, § 56026.1, subds. (a) & (b).) When a student satisfies the requirements for a regular diploma, the student's eligibility for FAPE ends.

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A regular high school diploma means a diploma conferred on a student who has met all local and state high school graduation requirements. (Ed. Code, § 56026.1, subd. (b).) A regular high school diploma does not include an alternative degree that is not fully aligned with the state academic standards, such as a certificate or a general educational developmental credential. (34 C.F.R. § 300.102(a)(3)(iv); Ed. Code, § 56026.1, subd. (c).) A regular high school diploma means the standard high school diploma awarded to the preponderance of students in the state that is fully aligned with state standards, or a higher diploma. (34 C.F.R. § 300.102(a)(3)(iv); see also Ed. Code, § 51225.3.)

The establishment of proficiency standards for a high school diploma is a state function which is not addressed by the IDEA or federal regulations. Neither the IDEA nor California education law requires that a graduating student exhibit academic proficiency at a 12th grade level. State law and school district policy exclusively determine diploma and graduation requirements. (*Letter to Anonymous*, Office of Special Education Programs (OSEP) (Nov. 1, 1994); see also, *Parent on behalf of Student v. Newport-Mesa Unified School Dist.* (December 9, 2010) OAH Case No. 2010060770 (*Newport Mesa*) [the determination of a student's proficiency is left to the school district and the IEP team].)

In California, a student must complete the curriculum and have sufficient passing credits in each required area of study. Education Code section 51225.3 prescribes the courses required for a student to earn a high school diploma. The governing board of any California school district maintaining a high school shall prescribe courses of study designed to provide the skills and knowledge required for adult life, and shall prescribe separate courses, including but not limited to, a course of study designed to prepare prospective pupils for admission to state colleges and universities, and a course of study

for career technical training. (Ed. Code, § 51224.) No diploma shall be conferred on a pupil as evidence of completion of a prescribed course of study or training, or of satisfactory attendance, unless the pupil has met the standards of proficiency in basic skills prescribed by the governing board of the high school district, or the equivalent thereof. (Ed. Code, § 51412.)

When grades are given for any course of instruction taught in a school district, the grade given to each pupil shall be the grade determined by the teacher of the course and the determination of the pupil's grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency, shall be final. (Ed. Code, § 49066, subd. (a).) The governing board of the school district and the superintendent of such district shall not order a pupil's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade. (Ed. Code § 49066, subd. (b).)

The Every Student Succeeds Act allows states to adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards are aligned with state academic content standards and promote access to the general curriculum consistent with the IDEA. (20 U.S.C. § 6301, et seq.) California has adopted alternate academic achievement standards for students with disabilities who cannot achieve state academic achievement content standards or

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meet the requirements necessary to receive a regular high school diploma. (Ed. Code, § 56390, subd. (a), (b), and (c).) A local educational agency may award an individual with exceptional needs a certificate or document of educational achievement or completion if:

- a. The individual has satisfactorily completed a prescribed alternative course of study approved by the governing board of the school district in which the individual attended school or the school district with jurisdiction over the individual and identified in his or her IEP;
- b. The individual satisfactorily met his or her IEP goals and objectives during high school as determined by the IEP team; or
- c. The individual has satisfactorily attended high school, participated in his or her IEP, and has met the objectives of the statement of transition services. (*Ibid.*)

Education Code section 56392 states,

"It is not the intent of the Legislature by enacting this chapter to eliminate the opportunity for an individual with exceptional needs to earn a standard diploma issued by a local or state educational agency when the pupil has completed the prescribed course of study and has passed the proficiency requirements with or without differential standards." (Ed. Code, § 56392.)

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A school district cannot deny a regular high school diploma to a student who meets the district's graduation requirements simply because that student has a disability. (*Letter to Anonymous*, OSEP (Nov. 1, 1994).) To do so would constitute discrimination based on a disability, prohibited under Section 504 of the Rehabilitation Act of 1973. (29 U.S.C. § 701, et seq.; *Letter to Runkl*, U.S. Dept. of Educ., Office for Civil Rights (Sept. 30, 1996).) When an individual with exceptional needs meets public education agency requirements for completion of a prescribed course of study designated in the student's IEP, the public education agency which developed the IEP shall award the diploma. (Cal. Code Regs., tit. 5, § 3070.) Further, the IDEA does not require a student to achieve all IEP goals before being eligible to graduate with a regular high school diploma. (*Letter to Richards*, OSEP (Nov. 23, 1990.)

Student failed to prove by a preponderance of evidence that Sonoma Valley denied her a FAPE by awarding her a high school diploma in May 2024. Student was diagnosed with autism at age two. Student attended public school in Sonoma Valley and received special education services throughout elementary school. In the 2020-2021 school year, Student attended ninth grade at Sonoma Valley High School. Sonoma Valley convened an annual IEP team meeting on January 20, 2021, to review Student's progress and develop a FAPE offer for the 2021-2022 school year. This was the last IEP consented to by Parent. A summary of the January 20, 2021 IEP is provided for context and to describe Student's educational program and anticipated course of study for high school.

Student was eligible for special education under the categories of autism and speech or language impairment. The present levels of performance in the January 20, 2021 IEP noted that Student was hardworking with a positive attitude. In all academic

areas, Student completed most of her classwork and homework with the support of her one-to-one aide. Student struggled at the start of the fall semester in Algebra 1, but could access the curriculum with the support of her one-to-one aide. According to Student's teachers, Student accessed grade level curriculum. Student generally participated well in class, and her previous behaviors of protest and dysregulation had significantly decreased.

Student participated in twice weekly speech sessions and worked on social skills including initiating conversations, commenting or answering a question, and closing a conversation. Student could identify emotions, such as happy, sad, angry and surprised. Student participated in physical education and did not have difficulty writing or using a keyboard.

The January 20, 2021 IEP contained an individual transition plan based on an interview with Student. Student communicated that she wanted to work after high school as a chef. She was interested in living independently with friends.

The January 20, 2021 IEP offered Student goals in

- pragmatic language,
- behavior,
- reading comprehension,
- essay writing, and
- solving algebraic equations.

It also offered postsecondary goals in training or education, employment, and independent living, and transition services and community experiences to support the goals.

Sonoma Valley offered Student placement in a regular education classroom. It offered accommodations, including

- extended time for homework,
- frequent breaks,
- flexible seating,
- visual schedules,
- a graphic organizer and
- a calculator.

Student would spend 70 percent of the school day in the regular classroom, and 30 percent of the time outside the regular classroom. The January 20, 2021 IEP offered Student

- 500 minutes weekly specialized academic instruction in a study skills class;
- 60 minutes weekly speech and language services, 30 minutes each in individual and group settings;
- 90 minutes monthly behavior intervention consultation service;
- 1,800 minutes weekly intensive individual services, called a one-to-one aide;
- 30 minutes weekly college awareness services;
- 30 minutes weekly career awareness services; and
- extended school year services.

The January 20, 2021 IEP team reviewed Student's anticipated course of study from ninth grade through 12th grade and the number of credits Student required for graduation. Student's course of study anticipated Student would graduate with a regular high school diploma in May 2024. Parent participated in the January 20, 2021 IEP team meeting and discussed her concerns about Student needing more help in her classes. At the time, Parent did not express disagreement about Student working towards a regular high school diploma.

### THE JANUARY 19, 2023 IEP

Sonoma Valley held an annual IEP team meeting on January 24, 2022, and IEP team amendment meetings on May 31, and June 13, 2022. Parent did not consent to these IEPs.

Sonoma Valley convened IEP team meetings on January 19, and February 21, 2023, referred to collectively as the January 19, 2023 IEP, to review Student's three-year evaluation and develop an offer of FAPE for the 2023-2024 school year. Student was 16 years old and in 11th grade.

Student and Parent attended the January 19, 2023 IEP team meeting, along with

- Sonoma Valley's vice principal,
- a local educational agency representative,
- a speech language pathologist,
- a guidance counselor,
- a general education teacher,
- case manager and education specialist Celeste Cook,

- school psychologist Rachael Diaz, an
- adapted physical education teacher,
- Student's private behavior technician, and
- a Spanish language interpreter.

The February 21, 2023 IEP team members included

- Student,
- Parent,
- a Spanish language interpreter,
- Sonoma Valley's coordinator of special education,
- school psychologist Diaz,
- education specialist Cook, and
- Student's private applied behavior analyst.

The IEP team reviewed Student's course of study, an individual transition plan, Student's present levels of performance and progression on previous goals. The present levels of performance indicated Student was hard-working and motivated to succeed. She self-advocated and asked questions. She interacted with her peers and teachers. Student's teachers reported Student participated well in class. Her protest behaviors had diminished and she could regulate her behavior when presented with a non-preferred task. Student attended school regularly, completed tasks throughout the day, and could take care of her daily needs.

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The IEP team discussed progress on Student's prior goals. Student met or made progress on all goals. The IEP team discussed new proposed annual goals for Student for the upcoming year. The IEP offered goals in

- pragmatic language (understanding figurative language),
- gross motor (executing a push-up and a birdie),
- writing (composing a five paragraph essay),
- reading comprehension (comprehending words and phrases),
- transition (career awareness), and
- behavior (reducing frequency and duration of perseveration).

It offered Student accommodations, including

- extended time for assignments and homework,
- frequent breaks,
- flexible seating,
- a calculator and organizer, and
- obtaining Student's attention before speaking.

School psychologist Diaz reviewed the results of her psychoeducational assessment of Student and report dated January 18, 2023. Cognitively, Student had strengths in nonverbal intelligence and scored in the average range on the Kaufman Brief Intelligence Test, Second Edition. Nonverbal intelligence impacted the ability to solve new problems using visual-spatial abilities and pattern recognition without relying on language. Student scored in the lower extreme range in verbal intelligence. Verbal intelligence measured

language skills, such as vocabulary, comprehension, and reasoning with words. The verbal intelligence score measured the amount of specific knowledge an individual had acquired and how they could apply it.

As part of her evaluation, Diaz reviewed previous assessments for Student, including Sonoma Valley's 2017 and 2020 three-year evaluations. In Sonoma Valley's 2017 evaluation, Student's full scale intelligence quotient score was 91, within the average range. On the 2020 evaluation, Student's full scale intelligence quotient was 86, which fell in the low average range. Diaz's report noted that Student's low verbal scores were consistent with prior assessments and reflected an area of weakness for Student. Diaz explained to the January 18, 2023 IEP team that Student's significant discrepancies between scores on nonverbal versus verbal intelligence was consistent with autism.

Diaz testified at hearing. Diaz was a licensed school psychologist for 10 years. She had worked as a school psychologist at Sonoma Valley for six years. Her duties included assessing students for special education eligibility, attending IEP team meetings, and providing school counseling to students with disabilities. She conducted approximately 40 assessments yearly in the high school setting for students 14 to 19 years of age. Diaz was familiar with Student from conducting her three-year evaluation in January 2023, attending her IEP team meetings, and meeting with Student in the school environment. Diaz testified that she did not administer a full cognitive test as part of the January 2023 reevaluation because Student's cognitive abilities had previously been assessed by Sonoma Valley. Diaz opined that the disparity between Student's nonverbal and verbal abilities was consistent with autism. Student benefitted from additional time to respond to verbal demands and visual supports. Student had average reasoning and problem solving skills commensurate with her same-aged peers.

The January 18, 2023 psychoeducational evaluation reported Student's scores on the Woodcock-Johnson IV Test of Academic Achievement. This standardized assessment measured skills in reading, written expression, and mathematics. Scores between 90 and 110 fell within the average range. Student's academic scores on the academic assessment ranged from low to average. Student demonstrated relative strength in basic reading skills with a score of 91. Student's reading scores were in the low to average range. Student's mathematics scores fell in the low range, and her written language fell in the low average range. Student's broad achievement score of 75 indicated Student's overall academic scores in reading, writing, and math were low compared to her peers.

Sonoma Valley's speech language pathologist reviewed the results of the speech and language assessment she conducted in December 2023. Student had pragmatic language deficits and challenges in understanding figurative language, vocabulary, and communicating in a concise matter. The IEP team determined Student required continued speech and language services to address her pragmatic language deficits.

The IEP team reviewed Student's progress towards obtaining a regular high school diploma. Student completed 150 of the required 220 total credit hours to earn a regular high school diploma. The IEP document identified the courses and number of units required to graduate and stated the course of study enabled Student to meet her postsecondary goals. The IEP team discussed Student's required classes for her senior year and recommended a course schedule.

At the January 19, 2023 IEP team meeting, Parent asked questions and expressed her concerns. She asked about Student's reading comprehension and a current research project. Cook responded that Student would receive support in her study skills and

English classes to complete the project. Parent asked the speech language pathologist questions about her recent assessment of Student. The speech language pathologist answered Parent's questions and stated Student would continue to receive speech and language services.

At the February 21, 2023 IEP team meeting, Parent stated her belief that Student should be on the certificate of completion track instead of the regular high school diploma track. Cook responded that Student had made progress towards earning a regular high school diploma and was performing well.

The IEP team discussed Student's participation in the California Assessment of Student Performance and Progress, California's statewide test for kindergarten through 12th grade students to assess readiness for college and careers. Parent believed the test was too difficult for Student and requested that Student instead take the California Alternative Assessment.

The IEP team considered the full continuum of placement options available within a comprehensive public high school. The IEP team determined that placement in general education classes with one-to-one aide support was the least restrictive environment for Student. The January 19, 2023 IEP offered Student annual goals in

- pragmatic language,
- gross motor,
- writing,
- reading comprehension,
- transition and
- behavior.

It included an individual transition plan with three post-secondary goals, one each in college awareness, career awareness, and independent living. The IEP offered a wide range of accommodations including extended time for assignments and homework, flexible seating, and frequent breaks. The IEP offered

- 1,590 minutes weekly one-to-one aide services;
- 30 minutes, twice weekly speech and language services, 15 minutes, twice monthly consultation services between the speech language pathologist and Student's teachers;
- 90 minutes weekly specialized academic instruction in the regular classroom;
- 750 minutes yearly adapted physical education services;
- 60 minutes monthly behavior intervention consultation services;
- 40 minutes monthly college awareness services delivered in the regular classroom; and
- 40 minutes monthly career awareness services delivered in the regular classroom.

Student would spend 99 percent of the time in the regular classroom setting, and one percent of time outside the regular classroom setting.

Parent did not consent to the January 19, 2023 IEP.

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## MAY 23, 2023 AMENDMENT IEP TEAM MEETING TO DISCUSS PARENT'S REQUEST TO REMOVE STUDENT FROM THE DIPLOMA TRACK

Sonoma Valley convened an amendment IEP team meeting on May 23, 2023, in response to Parent's request to change Student's course of study from a regular high school diploma to a certificate of completion. The IEP team members included

- Student,
- Parent,
- Sonoma Valley's director of special education and a vice principal,
- a guidance counselor,
- a general education teacher,
- Cook,
- a representative from the North Bay Regional Center,
- Student's private applied behavior analyst, and
- a Spanish language interpreter.

Parent expressed her desire that Student be placed on a certificate of completion track and to discuss Student's transition plan. Student's teachers reported that Student participated in class, was on time, and currently had As in all her classes, except for a B plus in history. Student's general education teacher shared that Student had increased her participation in class and currently had an A.

The IEP team discussed Student's progress towards meeting graduation requirements. Student was on track to graduate in May 2024. She needed to complete English 4, Civics/Economics, and elective credits. The IEP team discussed the need to waive the living skills graduation requirement because Student was enrolled in Spanish, and therefore did not have space in her schedule to take this course.

The IEP team reviewed Student's proposed course schedule for her senior year. The IEP team discussed Student's current transitions goals, developed using a computer based transition assessment, which helped students to identify strengths, interests, and postsecondary goals. The IEP team discussed Student's transition goal of exploring college or training programs that led to her career of interest, including entrance requirements. The IEP team discussed that the following year Student would have a transition goal to support her post-secondary goals. Student was eligible for services through the Department of Rehabilitation, and Sonoma Valley offered to provide Parent paperwork to sign allowing Student to meet with a coordinator from the Department of Rehabilitation. The IEP team discussed that the Department of Rehabilitation provided post-secondary support in various areas, including housing, transportation, job skills, and occupational training.

The IEP team reviewed Student's current goals, services, and accommodations. They engaged in a lengthy discussion about the differences between earning a regular high school diploma versus a certificate of completion. Student participated during the IEP team meeting and shared that she wanted to receive a diploma and graduate. Student wanted to get a job, such as working at a local pizza restaurant. Student was interested in attending junior college and completing a culinary program.

Student did not testify at hearing. However, Student's desire to obtain her diploma and enter junior college was confirmed by other evidence, including testimony by case manager Cook, school psychologist Diaz, independent educational evaluator Adriana San Millan, and Student's private board certified behavior analyst Ruben Rangel.

Parent did not consent to the January 19, 2023 IEP because she continued to believe that Student should not receive a high school diploma but instead should receive a certificate of completion and attend a post-secondary transition program. Parent desired for Student to receive postsecondary services until she turned 22 years old.

On June 19, 2023, Sonoma Valley issued a prior written notice and informed Parent that Student was properly placed on the regular high school diploma track. Because of the parties' disagreement about Student's graduation track, Sonoma Valley notified Parent that it intended to file a due process hearing request with OAH, but suggested the parties first participate in a mediation with OAH to attempt to informally resolve the dispute. Parent agreed, and the parties participated in mediation but were unable to resolve their dispute.

## NOVEMBER 13, AND DECEMBER 13, 2023 AMENDMENT IEP TEAM MEETINGS

Student's Issues mistakenly reference an amendment IEP team meeting held on October 13, 2023. However, the amendment IEP team meeting was held on November 13, 2023.

School psychologist Adriana San Millan conducted an independent educational evaluation of Student on June 3, 2023. Sonoma Valley convened an IEP amendment team meeting on November 13, 2023, to review San Millan's evaluation and report. The following people attended the IEP Team meeting:

- Student,
- Parent,
- Parent's advocate,
- a Spanish language interpreter,
- Sonoma Valley's coordinator of special education,
- a local educational agency representative,
- a speech pathologist,
- an adapted physical education teacher,
- a guidance counselor,
- a general education teacher,
- school psychologist Diaz,
- education specialist Cook,
- a service coordinator for North Beach Regional Center,
- two private behaviorists from Redwood Behavioral Services, and
- San Millan.

Due to time constraints, the IEP team meeting was continued to December 13, 2023. The December 13, 2023 IEP amendment team members included

- Student,
- Parent,
- Sonoma Valley High School's principal,
- a coordinator of special education,
- school psychologist Diaz, education specialist Cook,
- a guidance counselor,
- a speech pathologist,
- a general education teacher,
- an adapted physical education specialist and
- a Spanish language interpreter.

Parent reiterated her belief that Student should remain on the certificate of completion track. Student shared that she wanted to attend junior college.

Student's present levels of performance and goal progress were reviewed by the IEP team. Cook reported that Student completed her assignments without prompting. Student worked on her transition goals, selected a career and identified postsecondary schools.

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Student's culinary art teacher reported that Student had an A plus. Student participated and worked well with her peers. Student demonstrated great progress in her culinary skills. She could read recipes, gather and prepare ingredients, including cutting, chopping, rolling, and grinding, and could prepare "an impressive recipe."

In English, Student had an A. Student's teacher reported Student completed her work and was on task. Student needed to add more detail in her quick write essays. Student asked to use her accommodations and was on track to meet her reading goal of developing vocabulary within texts and understanding figurative and literal meanings.

Student's civics and economics teacher reported that Student had a C plus. She completed assignments with step by step instructions. Student's writing was clear and structured, but lacked complexity. Student could sustain attention for long periods.

In communication development, Student used her best efforts and demonstrated a strong dedication to learning. Student exhibited strengths in turn taking, generating on topic comments, politeness, and using perspective skills. Student made solid progress on her figurative language goal.

Student's adapted physical education teacher reported Student was making progress towards her gross motor goals. Her hand-eye coordination and upper body strength had improved.

Sonoma Valley's guidance counselor reported Student was on track to graduate at the end of the 2023-2024 school year. Student's one-to-one aide reported that Student worked well independently and asked for help when needed.

School psychologist San Millan shared the results of her independent educational evaluation and recommendations with the November 13, 2023 amendment IEP team. As discussed in Issue 3 below, San Millan evaluated Student on June 3, 2023, and prepared a written report. San Millan determined that Student had significant academic and adaptive skills deficits. San Millan proposed a variety of transition goals, including

- attending a postsecondary program to learn cooking skills,
- researching the minimum wage,
- learning to apply for a job,
- looking both ways before crossing the street, and
- pregnancy prevention.

San Millan recommended that Student take educational classes in cooking, health, safety, and budgeting. She recommended that Student receive transition services until she turned 22 years old with the support of a one-to-one bilingual aide and various accommodations.

Sonoma Valley's IEP team members disagreed that Student should receive transition services until age 22. They believed Student had worked hard to earn a diploma and had a grade point average over 3.0. Student reiterated to the December 13, 2023 amendment IEP team that she wanted to graduate and attend junior college. Parent expressed concerns about Student's ability to initiate a conversation and participate in college without speech services. Sonoma Valley's speech pathologist responded to Parent's questions and explained that accommodations were available at the junior college level. Parent also expressed concerns about behaviors Student demonstrated at home, including pulling her hair and biting her lips. Cook responded these behaviors were not seen at school.

Parent reiterated that she did not want Student to receive a diploma. Sonoma Valley's IEP team members did not agree with Parent's desire to take Student off the diploma track.

The IEP team members acknowledged Parent's concerns about Student's deficits and discussed post-secondary resources available to Student through the California Regional Centers and Department of Rehabilitative Services.

### PARENT'S TESTIMONY ABOUT STUDENT'S NEEDS

Parent testified at hearing. Parent believed Student should not have received her regular high school diploma and that Student had many needs. Parent's description of Student's needs in the home and community settings contrasted significantly with Sonoma Valley's observations of Student at school. Parent helped Student with all her daily needs, including brushing her teeth and hair, dressing, and preparing food. Parent did not leave Student unattended because of fear she could wander off. Parent did not believe Student could count money, purchase items, cook, or ride the bus. Parent thought Student could not retain information she learned at school. Parent provided contradictory testimony, including that Student spent hours working on homework, and did not do any homework. Parent disagreed Student was ready to attend junior college or find a job.

Parent believed Sonoma Valley modified Student's curriculum. However, Parent conceded she did not know the difference between accommodations and modifications. Accommodations are supports that allow a student to access the same material as her peers. Modifications change what a student learns because the general curriculum is too advanced. By spring 2023, Parent did not think Sonoma Valley was addressing her

concerns about Student's program. Parent was concerned that Student did not have the skills to make educational and career decisions, and believed she should attend a transition program until she turned 22 years old.

Parent believed Student's high school grade performance was unreliable and did not reflect Student's true ability and performance. Parent questioned if Student earned A and B grades. Parent believed Student's teachers lied about her grades and Student was incapable of earning these grades. Parent also believed that Student's culinary arts teacher lied about Student's cooking abilities because Parent did not see these skills at home. Parent's speculation that Student's grades were inflated or her curriculum modified was insufficient to meet her burden of proving by a preponderance of the evidence that Student could not perform the course work for which she earned credit.

Parent's multiple inconsistencies at hearing negatively affected her overall credibility. Parent also claimed she did not understand the difference between a diploma and certificate of completion and denied Sonoma Valley explained this to her. However, the evidence established that the January 19, and February 21, 2023 IEP teams discussed Parent's concern that Student should be on the certificate of completion track instead of the diploma track. Further, the May 23, 2023 IEP team engaged in a detailed discussion about the differences between the two tracks, along with post-secondary supports available to Student through the California Regional Centers and Department of Rehabilitation, including housing and transportation assistance, job skills, and occupational training. These inconsistencies negatively impacted Parent's credibility.

Parent also offered confusing testimony about her discussions with the Department of Rehabilitation and Santa Rosa Junior College about Student's ability to attend junior college. Parent testified that she met with representatives from Santa Rosa Junior College

in November 2024 and November 2025, to learn about its program offerings. Parent also met with the Department of Rehabilitation in spring 2025 to discuss what supports they could provide Student. In her testimony, Parent implied that both entities told her Student could not attend junior college. On further questioning, Parent conceded that it was her belief Student was not ready to attend junior college. Parent's testimony reflected a lack of candor, which negatively impacted her credibility.

In the IEP team meetings and at hearing, Parent could not articulate why she believed Student should not have been awarded a high school diploma, other than to generally state Student had needs "in all areas" and Parent wanted Student to receive transition services until she was 22 years old. When asked about Student's needs, Parent identified deficits in recognizing danger, understanding money, knowing how to shop, or how to fill out applications for employment. Parent's testimony reflected her misunderstanding that Sonoma Valley should have considered Student's preparation for independent living in determining to award her a high school diploma. The correct standard is whether the student has met all local and state high school graduation requirements. (Ed. Code, § 56026.1, subd. (b).)

Parent also described an incident of alleged sexual abuse against Student during middle school. However, the evidence did not establish that any IEP team member, including Parent, believed Student required additional or different services from Sonoma Valley to address any social-emotional or behavioral needs in the school setting resulting from that incident.

Overall, Parent's testimony was unpersuasive in establishing Sonoma Valley denied Student a FAPE by issuing a regular high school diploma in May 2024.

## TESTIMONY BY INDEPENDENT EDUCATIONAL EVALUATOR ADRIANA SAN MILLAN

Student relied substantially on San Millan's report and recommendations in arguing Sonoma Valley should not have awarded Student a diploma. However, San Millan's opinions and recommendations were fundamentally flawed.

San Millan held a master's degree in school psychology and a master's degree in special education. San Millan was a bilingual school psychologist for approximately 25 years, and was fluent in Spanish and English. San Millan held clear credentials in school psychology, school administration, and special education.

San Millan worked as a school psychologist in her company, Adriana San Millan School of Psychology and Special Education Services, LLC, since January 2012. She oversaw a team of assessors and personally conducted psychoeducational, academic, transition, and functional behavior assessments on a contract basis for various public charter schools. San Millan conducted approximately 130 assessments yearly, including approximately 10 transition assessments.

San Millan's assessment was based on

- interviews with Parent and Student,
- a records review,
- Parent rating scales,
- a living skills assessment administered to Student,

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- various other questionnaires,
- a standardized academic achievement test, and
- observations of Student in the clinical setting and community.

San Millan reviewed Student's records, specifically psychoeducational evaluations conducted by Sonoma Valley in 2017 and 2019, a 2021 educationally related mental health evaluation, and an independent educational evaluation conducted by San Millan in April 2021. San Millan did not review Sonoma Valley's three-year psychoeducational and speech and language evaluations conducted in January 2023. San Millan did not review the January 19, 2023 IEP which reflected Student's most recent present levels of performance, updated goals, and the special education and related services offered by Sonoma Valley.

In her interview with San Millan, Parent expressed her belief that Student was not ready to graduate and needed post-secondary services. Overall, Parent was concerned with Student's academic struggles and did not believe she was provided sufficient support by Sonoma Valley. Parent did not believe Student could write at grade level and did not adapt well to change.

Student told San Millan her favorite class was cooking, and she struggled most in math. Student wanted to live with her mother and did not know types of transportation other than driving with her mother. Student told Millan she wanted to attend a post-secondary program until she turned 22 years old. Student did not know the value of money and she hoped to eventually work at a local pizza restaurant.

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## SAN MILLAN'S ACADEMIC ASSESSMENT LACKED TEACHER INPUT AND SCHOOL OBSERVATIONS

San Millan administered the Wechsler Individual Achievement Test, Fourth Edition, to evaluate Student's academic achievements in reading, math, writing, and oral language. In academics, Student scored in the very low range in word reading, essay composition, and math problem solving. She scored in the extremely low range in reading, reading comprehension, and sentence composition. At hearing, San Millan opined that Student's reading comprehension level was equivalent to a second grade level, and her math problem solving skills were at a third grade, eighth month level.

San Millan was not familiar with Student's coursework and grades. San Millan was not familiar with Student's January 19, 2023 IEP, including the accommodations, supports and services offered to Student, other than that she had a one-to-one aide. She was not familiar with Student's IEP goals or her progress on her goals. San Millan did not observe Student in the educational setting, nor speak to any of Student's teachers.

The lack of observation in Student's school setting and failure to interview or gather information from Student's teachers undermined the persuasiveness of San Millan's opinions and recommendations. Without observations, San Millan could not adequately address whether Student's deficits seen in clinical testing, rating scales, and interviews were accurate and prevented Student from making adequate educational progress. San Millan did not see how Student functioned in any school setting to verify the validity of her assessment tools and to see if they impacted Student's ability to learn and participate in school. This was contrary to California law which requires assessors to include in their written report the results of their assessment, including the relevant

behavior noted during the observation of the student in the appropriate setting. (Ed. Code, § 56327, subd. (c).) San Millan's failure to observe Student at school rendered her assessment insufficiently comprehensive and unreliable, which weakened the persuasiveness of her opinions and recommendations. (20 U.S.C. § 1414(b)(3)(C); 34 C.F.R. § 300.304(b)(1) & (c)(6) (2017); Ed. Code, § 56320, subd. (c).)

### SAN MILLAN'S ADAPTIVE LIVING ASSESSMENT WAS INCOMPLETE AND UNRELIABLE

San Millan assessed Student's adaptive skills using the Adaptive Behavior System, Third Edition, a comprehensive norm-referenced assessment of adaptive skills needed to care for oneself, respond to others, and meet environmental demands in all areas of life. The assessment produces a general adaptive composite score and scores on three adaptive domains of conceptual, social and practice. Parent completed this assessment. San Millan did not provide this assessment to any of Student's teachers.

Parent rated Student in the extremely low range in the conceptual domain, which summarized performance in communication, functional academics, and self-direction. Parent rated Student in the extremely low range in the social domain, which measured performance in leisure and social skills. In the practical domain, Parent rated Student's adaptive skills as extremely low. This domain included skills such as

- navigating the community,
- cleaning,
- food preparation,
- performing household chores, and
- following safety rules.

At hearing, San Millan unpersuasively testified that she reached out multiple times to Student's teachers to obtain rating scales, but they did not respond or stated they were too busy. San Millan could not explain when she reached out to Student's teachers, how she attempted to communicate with them, the names of the teachers, or any other details about her attempts to obtain their feedback. San Millan failed to document her attempts to obtain teacher rating scales. On cross-examination, San Millan appeared defensive when questioned about whether she obtained teacher input, which negatively affected her credibility. She unconvincingly argued that the lack of teacher input did not affect her opinions because of Student's low academic functioning on standardized testing. She relied substantially on Student's results on standardized testing, even though, as she conceded, some students struggle with standardized testing. San Millan's failure to obtain teacher's input on the Adaptive Behavior System rendered her assessment incomplete.

San Millan administered an assessment called the Life Skills Assessment, an assessment offered by the Washington State Department of Social and Health Services to assess the level of a student's independence. This assessment consisted of a checklist with 15 categories of everyday skills in different domains, including

- money management,
- food management,
- personal appearance and hygiene,
- knowledge of community resources,
- transportation,

- emergency and
- safety skills.

Based on the responses provided, the assessor determined if the student's skills were at basic, intermediate, or advanced level. San Millan reported that Student scored at a basic level in most life skills domains, including

- money and food management,
- health functioning,
- educational planning,
- job seeking skills,
- emergency and safety skills,
- knowledge of community resources,
- legal issues,
- pregnancy prevention and
- transportation.

Student had intermediate skills in personal appearance and hygiene. San Millan did not provide this assessment to other individuals familiar with Student, including her teachers. Confusingly, San Millan provided this assessment directly to Student, rather than to adults familiar with Student's strengths and weaknesses in the areas assessed.

San Millan's testing violated testing protocols because she did not provide the questionnaires to multiple adults familiar with Student, as required by the test manufacturer's instructions. San Millan's written report and testimony about her observations of Student in the clinical and community settings were incomplete and

therefore unpersuasive. San Millan observed Student during clinical testing and while crossing the street. San Millan testified Student required verbal prompts to turn her head and look both ways before crossing. San Millan's written report, and her testimony at hearing, lacked details about when she observed Student in the community, the length of her observation, and where and when this occurred. The limited observations of Student during the assessment and one community activity was unpersuasive to establish Student's adaptive functioning in the community.

San Millan did not observe Student engaging in adaptive or functional activities in school or outside of school. San Millan did not observe Student in any social situations or in any volunteer or work opportunities. San Millan did not observe Student interacting with her peers. San Millan did not observe Student filling out a job application or using money. Without complete observations of Student's adaptive functioning, San Millan's opinions and recommendations lacked reliability and failed to provide a comprehensive understanding of how Student functioned in a school or community setting. Therefore, San Millan's opinions and recommendations relating to Student's adaptive functioning were given little weight.

Although San Millan attended Student's IEP team meeting in fall 2023, she had little independent recollection of the IEP team meeting. San Millan's answers were elicited primarily through leading questions by Student's counsel or reading directly from her report, which negatively impacted her credibility and opinions. San Millan presented as an advocate for Student's position, rather than an unbiased neutral expert assessor. She opined that Sonoma Valley should not have awarded Student a regular high school diploma and that Student could not attend junior college. As support for her opinion, she relied primarily on her academic assessment for Student, her observations of Student during testing and crossing the street, and Parent's rating

scales. Most notably, San Millan opined Student's extremely low scores in reading comprehension and mathematical problem solving indicated she could not access junior college independently. However, the standard for awarding a regular high school diploma is whether the student has met all local and state high school graduation requirements. (Ed. Code, § 56026.1, subd. (b).) San Millan's opinion was not persuasive when compared with the weight of evidence establishing Student accessed the general education curriculum, obtained passing grades, and had adequate behavior and adaptive functioning.

San Millan's opinion that Sonoma Valley should not have awarded Student a high school diploma was given little weight.

#### TESTIMONY BY BOARD CERTIFIED BEHAVIOR ANALYST RUBEN RANGEL

Board Certified Behavior Analyst Ruben Rangel testified at hearing. Ruben held a master's degree in psychology and was a credentialed board certified behavior analyst since 2014. He provided home and community based behavior services to individuals with disabilities and supervised 25 behavior analysts. He provided direct behavior services to Student in the home and community settings starting in 2018. He believed he was referred to Student through her health care provider or the North Bay Regional Center. At the time, Student had maladaptive behaviors, including stealing, playing with fire, aggression towards her siblings, and eloping. He developed behavior goals and provided in home services to Student two to three times weekly, for two hours each session.

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Rangel stopped providing direct behavior services, but could not recall when. During the 2023-2024 school year, Rangel did not provide direct services to Student. Rangel could not describe any specific behavioral challenges for Student during the 2023-2024 school year. He opined that she met her prior behavior goals in self-regulation, physical aggression, and following daily routines across settings. She could complete her schoolwork independently and self-advocate.

Rangle believed that Student required support in navigating the community and attending junior college independently. He expressed concern about Student's communication difficulties. He did not believe Student could navigate a junior college campus without support, although he had not accompanied her to a junior college campus.

Rangel presented as a knowledgeable, experienced board certified behavior analyst. However, he did not work in the school setting, was not familiar with Student's behaviors or adaptive functioning at school, and did not observe Student at school or speak with Student's teachers during the 2023-2024 school year. He was not familiar with Student's individual transition plan, and did not hold any education credentials.

Therefore, his testimony did not prove that Sonoma Valley denied Student a FAPE by awarding her a high school diploma in May 2024.

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## SONOMA VALLEY'S REFERRAL TO THE DIAGNOSTIC CENTER, NORTHERN CALIFORNIA

Sonoma Valley and Parent remained at an impasse about Student's continued progression towards a regular high school diploma. In spring 2024, Sonoma Valley referred Student to the Diagnostic Center, Northern California, to consider supports needed to help Student in her post-secondary transition and her needs in daily living, community access, and college and career awareness. The Diagnostic Center assessed Student on May 13, 16, and 17, 2024, and prepared a summary report and a complete written report. As discussed below, the summary report was reviewed by the May 28, 2024 IEP team.

The California Department of Education runs three state-run diagnostic centers that provide comprehensive assessments free of charge to support local educational agencies and families. The diagnostic centers are part of the public school system, except they do not derive revenue from the State School Fund. (Ed. Code, § 59201.) The diagnostic centers provide services, including

- pupil assessments,
- consultations,
- technical assistance, and
- training to school districts, county offices of education, and special education local plan areas. (*Ibid.*)

A school district may refer an eligible student to the diagnostic center for further assessments and recommendations. (Ed. Code, § 56326.)

At hearing, multiple witnesses testified they reviewed and considered the Diagnostic Center's report in forming their conclusions and recommendations, including Student's expert witnesses

- San Millan,
- Dr. Sarah Rice Schiff,
- Julie Zito,
- Jessica Cuevas, and
- Sonoma Valley's school psychologist Diaz.

The Diagnostic Center's assessment consisted of interviews with

- Parent,
- Student,
- education specialist Cook,
- school psychologist Diaz,
- a speech language pathologist,
- a board certified behavior analyst, and
- a Regional Center service coordinator.

The Diagnostic Center conducted a records review, administered informal and formal assessments, and observed Student on May 13, and May 16, 2024. Results from Student's psychoeducational evaluations in 2017, 2020, 2021, and 2023 indicated that Student's nonverbal cognitive skills, including fluid reasoning, visual-spatial skills, and processing speed fell in the average range. The Diagnostic Center reported that these strengths showed Student had solid problem-solving abilities, could interpret and

manipulate visual information, and could process information at an average rate. In contrast, Student's language based skills fell in the below average range, consistent with Sonoma Valley's prior assessments.

Student struggled with social language and problem solving due to her verbal language deficits. She could successfully problem solve with visual supports. Student's executive functioning skills exhibited cognitive rigidity and adherence to routine consistent with autism. She could initiate tasks and maintain attention, exhibit impulse control, and modulate her emotional responses. Student's executive functioning difficulties could make adaptive tasks more challenging.

The Diagnostic Center's assessment results and recommendations largely aligned with Sonoma Valley's reporting on Student's academic, communication, behavior, and adaptive living skills. The Diagnostic Center did not recommend that Student receive transition services until the age of 22, and highlighted Student's achievement in earning a regular high school diploma. It stressed the need to "presume competence and to tailor interventions to address [Student's] specific language and executive functioning needs." It noted that Student worked hard to overcome differences and earned a diploma with minimal accommodations and achieved passing grades on quizzes and summative examinations without modifications. The report noted Student's consistent interest in enrolling in junior college and pursuing courses in culinary arts to prepare for a career in food services. The Diagnostic Center found through observations and direct assessment that Student demonstrated the prerequisite skills to achieve this goal.

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The Diagnostic Center recommended that Student connect with outside agencies including the California Regional Center and the Department of Rehabilitation. The report identified the services available through these agencies to support Student's training and education, transportation, and job placement needs.

### THE MAY 28, 2024 IEP TEAM MEETING

Sonoma Valley convened an IEP team meeting on May 28, 2024. The purpose of the meeting was to review Student's progress towards her graduation requirements and discuss Student's exit from special education and related services. The IEP team members were

- Parent,
- a Sonoma Valley representative,
- education specialist Cook,
- school psychologist Diaz,
- a general education teacher,
- a speech language pathologist,
- an adapted physical education specialist,
- a Spanish interpreter, and
- a representative from the California Regional Center.

The May 28, 2024 IEP team reviewed a summary of Student's academic achievement and functional performance. Student's teachers reported she was hard-working and motivated to succeed. She self-advocated and asked questions. She participated in class and interacted with teachers and peers. Student had a B in

study skills, an A plus in culinary arts, a B in 3-D Design, an A in English, an A plus in advanced dance, and a C plus in civics/economics. Student's cognitive abilities were in the normal range. Student made solid progress on her figurative language goal. Student had an A in adapted physical education and could take care of her daily needs.

The May 28, 2024 IEP team reviewed Student's post-secondary goals of attending Santa Rosa Junior College and becoming more independent. The May 28, 2024 IEP included recommendations to assist Student in meeting her post-secondary goals. The IEP team recommended that Student could benefit from attending junior college, seeking part-time employment, and monitoring her monthly income and expense budget. The IEP team also recommended that Student contribute to her community by volunteering.

The May 28, 2024 IEP document identified the agencies known to be working with Student, or that could be a resource to Student, including contact information. This included the California Department of Rehabilitation and the Santa Rosa Junior College/Disabilities Resources Department.

Parent expressed concerns about Sonoma Valley's decision to award Student a diploma. She believed Student required a lot of support and was not ready to graduate. Cook and Diaz responded to Parent's concerns. They reviewed Student's progress on the diploma track, and emphasized the post-secondary supports available to Student. They discussed supports available to Student in the culinary program at Santa Rosa Junior College.

The Sonoma Valley's IEP team members reviewed the supports available through the Regional Center and Department of Rehabilitation. The regional center representative discussed services they put in place for Student in safety, transition, and behavior through

Redwood Behavior Services. In her closing brief, Student argues the regional center representative believed Student required additional transition services and implored Sonoma Vally to provide transition services. However, the regional center representative did not testify at hearing and it was unclear what recommendations she made, and therefore this argument was unpersuasive.

At hearing, Diaz opined that the May 28, 2024 IEP team considered the Diagnostic Center's assessment and findings. Consistent with the Diagnostic Center's findings, Diaz opined that the disparity between Student's nonverbal cognitive skills and language based skills made Student appear more cognitively impaired than she truly was. Diaz explained that Student could problem solve, learn, and process visual information similar to her same-aged peers. Student learned best with visuals, instead of spoken words. Student required time, explicit instruction, simplified language, and visual supports to learn. Diaz persuasively opined Student demonstrated her ability to learn in the classroom with the services and supports provided in her IEP, as reflected in her grades, teacher reports, and progress on IEP goals. Diaz strongly believed Student had earned her high school diploma and could achieve her post-secondary goals, notwithstanding her communication and cognitive verbal skill deficits associated with autism. She believed it would have been discriminatory to move Student to the certificate of completion track.

The Sonoma Valley members of the May 28, 2024 IEP team meeting determined Student had earned a regular high school diploma and would graduate the next week. Student graduated from Sonoma Valley High School in May 2024 with a regular high school diploma.

## POST-GRADUATION PRIVATE ASSESSMENTS

Following Student's graduation in May 2024, Student obtained private evaluations in occupational therapy, speech and language, and neuropsychology. Dr Sara Rice Schiff completed a neuropsychological evaluation in January 2025. Julie Zito conducted an occupational therapy evaluation in July 2025. Jessica Cuevas conducted a speech language evaluation in November 2024. Student relied on these after-acquired assessments and recommendations to support her argument that Sonoma Valley should not have awarded Student a regular high school diploma and instead offered Student transition services through the age of 22.

The reports prepared by Dr. Schiff, Zito, and Cuevas were not available at time of the IEP team meetings at issue. The issue of whether an IEP offers a student a FAPE must be made in light of information available when the IEP was developed, not in hindsight. (*Adams, supra*, 195 F.3d 1141, 1149.) However, the Ninth Circuit has observed that after-acquired evidence may shed light on the objective reasonableness of a school district's actions at the time the district made its decision. (*E.M. v. Pajaro Valley Unified Sch. Dist.* (9th Cir. 2011) 652 F.3d 999, 1006 (*Pajaro Valley*)). The Ninth Circuit held that courts may look to evidence not known to the decision makers at the time as "additional data, discovered late in the evaluation process, [that] may provide significant insight into the child's condition, and the reasonableness of the school district's action, at the earlier date." (*Ibid.*)

Here, the post-graduation private evaluations were conducted between six and 18 months after Student graduated from high school. Each of the evaluators opined that their assessments and results largely aligned with earlier assessments by Sonoma

Valley and the Diagnostic Center. In accordance with *Pajaro Valley*, the ALJ determined that the post-graduation evaluations had some limited relevance to the analysis of the IEPs at issue during the 2023-2024 school year.

However, even taking these evaluations into consideration, Student did not prove that Sonoma Valley denied her a FAPE by awarding her a regular high school diploma in May 2024.

### NOVEMBER 2024 SPEECH AND LANGUAGE ASSESSMENT BY JESSICA CUEVAS

Student retained speech language pathologist Cuevas to conduct a comprehensive evaluation of Student's communication needs. Cuevas evaluated Student on November 4, 2024.

Cuevas held bachelor's degrees in communication disorders and human development and a master's degree in speech-language pathology. Cuevas held a certificate of clinical competence in speech language pathology since 2021. She owned Dynamic Feeding & Speech Therapy, Inc., a company focused on providing pediatric feeding and speech and language services. She had conducted 10 to 12 speech language assessments.

Cuevas's evaluation included observations of Student in the clinical setting, interviews of Parent and Student, an oral mechanism examination and language sample, and standard assessments. On the Comprehensive Assessment of Spoken Language, Second Edition, a standardized assessment designed to measure oral language skills, Student demonstrated deficits in receptive and expressive language. Student's receptive

language skills fell in the below average to average range. Student's expressive language skills fell in the deficient to low average range. On a pragmatic language measure, Student demonstrated strengths in gaining attention and expressive language and narrative skills. Student needed verbal prompts for non-preferred topics and had difficulty narrating events in sequential order.

Cuevas diagnosed Student with mixed receptive-expressive language delays. She recommended that Student receive individual speech and language therapy for 45 minutes twice weekly to practice social communication skills, and group therapy for an unspecified length and duration.

At hearing, Cuevas opined that Student's language deficits impacted her ability to live independently and have meaningful relationships, and decreased her quality of life. Cuevas opined that Student's language deficits prevented Student from taking college level classes and understanding higher level concepts.

Cuevas had an extensive interview with Parent. Based on this interview, Cuevas understood that Student could not advocate for herself and was unaware of safety concerns. Cuevas did not speak to Student's teachers or observe Student outside the clinical setting. Cuevas did not believe that Student's teachers' input would impact her opinions.

Cuevas reviewed Student's IEPs and related amendments developed in 2020 and 2021. However, she did not review the January 19, 2023 IEP, the November 13, and December 13, 2023 amendment IEPs, or the May 28, 2024 IEP and therefore was not aware of Student's speech language goals, progress on goals, or services during the 2023-2024 school year. Her testimony displayed a fundamental lack of understanding

about school based special education assessments. She unpersuasively opined she was familiar with legally compliant assessments, but did not believe observations in the school setting were required. She incorrectly believed that obtaining teacher input was optional.

Cuevas's opinions were based largely on her interview with Parent and lacked observations and teacher input. Cuevas's assessment and report was insufficiently comprehensive and unreliable, which undermined her opinions and recommendations. Cuevas's opinions about Student's ability to live independently, have meaningful relationships or quality of life were outside her expertise and displayed a lack of knowledge or understanding of individuals with disabilities.

Cuevas's opinions were considered, but given little weight based on her incomplete and unreliable assessment.

## JANUARY 2025 NEUROPSYCHOLOGICAL EVALUATION BY DR. SARA RICE SCHIFF

Student retained Dr. Sara Rice Schiff to assess Student's psychological functioning. Dr. Schiff was a licensed clinical psychologist with an emphasis in neuropsychology. Dr. Schiff worked in the mental health field for over 20 years. Dr. Schiff conducted independent educational evaluations for school districts and families. Over the course of her career, Dr. Schiff conducted over 800 assessments. Approximately 10 percent of her assessments were for high school or post-secondary students.

Dr. Schiff assessed Student over three days in January 2025. Dr. Schiff's assessment consisted of a records review, observations of Student in the clinical setting, an interview of Parent, Parent rating scales, and standardized assessments. Dr. Rice administered the

Wechsler Adult Intelligence Scale, Fifth Edition, to assess Student's cognitive functioning. Student's verbal cognitive skills were in the borderline/very low range, and her non-verbal/fluid reasoning skills were in the average range. Student's processing speed was in the low average range, and her full-scale intelligence quotient was in the low average range.

Dr. Schiff administered the Wechsler Individual Achievement Test, Fourth Edition, to measure Student's academic functioning. Student's academic skills fell in the borderline range in all areas, but sentence and listening comprehension fell in the extremely low range. Student demonstrated relative strengths in phonemic and orthographic processing, addition and subtraction fluency, and pseudoword decoding, and her scores in these areas fell in the average to low average range. Dr. Schiff reported that Student struggled with listening comprehension during testing impacting her ability to accurately follow directions.

Dr. Schiff observed that Student had adequate attention, memory, and executive functioning skills. However, on the Comprehensive Executive Functioning Inventory, a parent/caregiver report measuring executive functioning, Parent reported executive functioning skills in the well below average/impaired range. Based on Parent's report, Student had relative strengths in flexibility and organization, with scores in the low average range. In attention, emotional regulation, flexibility, impulse control, organization, planning, and self-monitoring, Parent gave Student below average or well below average scores.

On the Autism Diagnostic Observation Schedule, Second Edition, Student's total scores fell in the range indicative of autism. Dr. Schiff confirmed Student's autism diagnosis with fluent language and normal cognitive functioning.

Dr. Schiff administered the Adaptive Behavior Assessment, Third Edition, parent rating form to measure Student's adaptive skills. Based on Parent's ratings, Student's adaptive skills fell in the extremely low range overall in the conceptual domain, including communication and functional academic skills, and self-direction. In the social skills domain, Parent rated Student extremely low in social interactions and leisure skills. In the practical domain, Parent ranked Student extremely low in self-care and home and school living.

On the Behavior Assessment System for Children, Parent reported that Student had limited social skills. Parent noted significant deficits in social skills, leadership, communication, and daily living.

Dr. Schiff observed in the clinical setting that Student presented as naïve and immature based on her chronological age. While Student had some adequate academic skills, Dr. Schiff reported that Student's language comprehension was low. Student spoke fluently, but Dr. Schiff believed Student's receptive language skills were low. Dr. Schiff did not believe that Student was employable and required life skills, vocational intervention, and safety skills.

At hearing, Dr. Schiff opined that Student's academic, and executive and adaptive functioning scores were largely similar to those obtained by the Diagnostic Center's 2025 assessment, Sonoma Valley's January 2023 psychoeducational assessment, and San Millan's June 2023 independent educational evaluation. Dr. Schiff's findings as to Student's academic, executive and adaptive functioning shed some light as to Student's abilities and the reasonableness of Sonoma Valley's action because the information was generally consistent with previous assessments of Student. (*Pajaro Valley, supra*, 652 F.3d 999, 1006.)

However, Dr. Schiff's interpretation of the assessment results differed significantly from those by Sonoma Valley and the Diagnostic Center. Dr. Schiff opined that Student should not have been awarded a diploma and was incapable of attending junior college based on Student's low verbal functioning, inability to maintain a conversation or follow directions, and lack of independent living skills. Dr. Schiff believed Student was incapable of receiving a B plus grade in her senior English class because of her low reading comprehension abilities. Dr. Schiff was unclear why Sonoma Valley issued a diploma to Student and believed she had significant deficits that required a transitional program. She also did not believe Student had mastered her academic competencies and it was unrealistic for Student to independently attend culinary school.

Dr. Schiff's assessment and report suffered from the same fundamental flaws as San Millan's expert report. Without direct observations, it lacked reliability and failed to provide a comprehensive understanding of how Student functioned in the school environment. Dr. Schiff was unaware that Student was attending a program at the time called "Being Independent" through the California Regional Center, and did not observe her in that setting. Dr. Schiff conceded it would have been important to observe Student in a structured setting.

Dr. Schiff lacked personal knowledge of Student's performance in a classroom environment and she did not observe Student at Sonoma Valley or any educational environment or consult with Sonoma Valley's teachers or staff about Student's performance, needs, or abilities. Instead, the evidence established that Dr. Schiff's opinions about Student's academic performance were based on her interpretations of her testing and information from Parent. Dr. Schiff's information about Student's adaptive and living skills were based largely on Parent's report, Parent's rating scales and clinical observations of Student, which rendered her assessment insufficiently

comprehensive and unreliable, which undermined the persuasiveness of her opinions and recommendations. (20 U.S.C. § 1414(b)(3)(C); 34 C.F.R. § 300.304(b)(1) & (c)(6) (2017); Ed. Code, § 56320, subd. (c).)

Dr. Schiff's testimony was also unpersuasive because she offered opinions outside her expertise. Dr. Schiff was an experienced and qualified neuropsychologist. However, she was not a school psychologist and did not hold any educational credentials. She offered opinions inconsistent with the IDEA and California law. For example, she opined that Student should not have earned a diploma because she had not mastered high school level academics. This is not the legal standard. The IDEA and California Education Code do not require that a student demonstrate proficiency at the 12th grade level to earn a diploma. (Ed. Code, § 56026.1, subd. (b).)

Dr. Schiff opinions were largely based on Student's extremely low verbal cognition scores and low academic scores on standardized assessments. Her opinions lacked consideration of Student's access to her educational program with the services and supports provided in her IEP. Dr. Schiff did not obtain input from Student's teachers or understand how Student functioned in the school setting. Dr. Schiff's testimony about Student's academic performance and functioning in the school setting was inconsistent with the weight of the evidence during the period at issue.

Therefore, Dr. Schiff's opinions were given little weight.

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## JULY 2025 OCCUPATIONAL THERAPY ASSESSMENT BY JULIE ZITO

Occupational therapist Julie Zito assessed Student on July 17, 2025, and wrote a written report. Zito held a bachelor's degree in occupational therapy and was a certified occupational therapist since 1999. Zito was the owner and president of Foundations Therapy Services, a nonpublic agency that provided school related and private occupational therapy services. Zito conducted independent educational evaluations and attended IEP team meetings.

Zito was referred by Parent to assess Student's basic daily living skills. Parent expressed concerns about Student's ability to live independently. Zito assessed Student for approximately 90 minutes to two hours on July 17, 2025; 14 months after Student graduated with a high school diploma.

Zito's assessment consisted of a review of records, including the Diagnostic Center's report, Dr. Schiff's 2025 neuropsychological evaluation, an interview of Parent, clinical observations during testing, and administration of several standardized measures. She administered the Goal Oriented Assessment of Life Skills, Test of Visual Motor Skills, Third Edition, Test of Visual Perceptual Skills, Fourth Edition, and the Sensory Processing Measure, Second Edition.

The Goal Oriented Assessment of Life Skills was designed for students ages seven through 17. Student's skills on this assessment were described by Zito as "solid," but she completed the tasks slowly. These tasks included cutting with scissors, opening a key lock, coloring, folding, opening and closing binders, dressing and undressing, carrying a tray with water, and completing a simple job application.

The Test of Visual Motor Skills, Third Edition, assessed visual motor skills used when copying a form or design. Student scored in the average range. She could process a design visually and reproduce it with minimal errors.

The Test of Visual Perceptual Skills, Fourth Edition assessed a person's ability to match a figure from a field of similar images. Student scored in the below average range.

The Sensory Processing Measure, Second Edition, measured a child's sensory processing abilities in everyday life. Parent completed this measure in Spanish. Parent scored Student in the severe difficulties range in visual processing challenges. Parent's responses indicated Student had moderate difficulties with processing auditory information, sensitivity to touch, body awareness, and balance and motion. Student's overall sensory processing total indicated moderate difficulties with sensory processing. Parent scored Student in the severe range for planning, ideas, and social participation.

Zito's report recommended that Student participate in a vocational program due to her difficulties completing tasks independently and inability to complete novel tasks. Zito further recommended that Student receive sensory accommodations, written instructions for multi-step tasks, and coaching for social participation.

At hearing, Zito opined that Student could not independently apply for a job, maintain a job, or live independently. When asked if she should have been awarded a diploma, she responded that Student "was not ready for the next stage of life." She opined that Student had needs in language, social skills, and executive functioning.

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Zito conceded at hearing that Student could complete a job application with prompting and her writing and fine motor skills were functional. She agreed Student's sensory deficits were based solely on Parent's reporting. She further agreed it would be important to consider how Student performed in the educational setting.

Zito's report and opinions at hearing were generally unpersuasive. Although Zito was an experienced occupational therapist, Zito did not obtain teacher input or observe Student in a structured or community setting. She did not observe Student with her peers. She was not familiar with Student's IEPs, progress towards her goals, her coursework or grades, or how she functioned in the school setting. These fundamental flaws rendered her insufficiently comprehensive and unreliable, which undermined the persuasiveness of her opinions and recommendations. (20 U.S.C. § 1414(b)(3)(C); 34 C.F.R. § 300.304(b)(1) & (c)(6) (2017); Ed. Code, § 56320, subd. (c).)

Further, Zito inferred Student should not have been awarded a diploma and was not ready for junior college. These opinions were outside her expertise and not based on the requirements for earning a high school diploma in California. Zito's willingness to offer an opinion outside her area of expertise negatively impacted her credibility.

According, her testimony was given little weight.

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## STUDENT DID NOT PROVE THAT SHE WAS REQUIRED TO TAKE COURSES IN GEOMETRY AND LIVING SKILLS

Student contends that Parent did not consent to a waiver of the living skills course and it was a required course for graduation during the 2023-2024 school year. Student further contends Student did not take geometry and that it was a graduation requirement. Sonoma Valley contends at the time Student graduated in May 2024, she satisfied all the existing graduation requirements.

Student did not prove she was required to take courses in living skills and geometry to obtain a diploma. Living skills and geometry were required courses during Student's freshman year. However, Sonoma Valley established that the living skills course was removed as a graduation requirement in April 2021, the second semester of Student's freshman year.

Student did not establish by a preponderance of the evidence that elimination of the living skills requirement did not apply to her. Further, such a finding would be inconsistent with Sonoma Valley's decision to remove this requirement in April 2021 for the purpose of allowing students with disabilities similar opportunities as their non-disabled peers to take elective courses.

Student also did not establish that geometry was a required course at the time Student graduated in May 2024. Geometry was not a required course under State law. (Ed. Code, § 51225.3) Sonoma Valley's graduation requirements for the class of 2024 included two years of math, one of which was Algebra 1. Student did not prove that Sonoma Valley improperly awarded her a diploma on the basis she did not take geometry.

## STUDENT DID NOT PROVE THAT SONOMA VALLEY RELIED SOLEY ON STUDENT'S GRADES

In her closing brief, Student argues that Sonoma Valley relied mainly on Student's grades and did not consider that Student consistently received failing scores on standardized tests. However, it is unclear what evidence Student relies on in making this assertion. The evidence suggested Student did not meet standards in English/language arts and math on the Smarter Balanced Assessment Consortium, a computer-based test that assessed students' knowledge in English language arts/literacy and math based on the Common Core State Standard. The evidence did not establish when Student took this test. Relying on education specialist Cook's testimony, Student argues the IEP team did not consider Student's scores on standardized testing, but does not discuss which standardized testing.

Moreover, Student's achievement on State standardized testing was not by itself determinative of Student's ability to earn a regular high school diploma, as discussed above. School psychologist Diaz's opinions were more persuasive than Student's experts. Diaz logically and persuasively explained that standardized assessment results was just one measure used by teachers to evaluate proficiency levels on State standards. Other measures included work samples, grades, and teacher observations. Other than Parent, no evidence was offered that Student did not complete her own work or that her curriculum was modified.

Student also relied on *Parents on behalf of Student v. Los Angeles Unified School Dist.* (September 26, 2013) OAH Case No. 2013050272. In that case, OAH held a school district denied a FAPE by awarding a regular high school diploma to a student with severe autistic-like behaviors and social-emotional and behavioral problems who

obtained passing grades in general education classes with substantial modifications to the curriculum and inflated grades. The curriculum was so thoroughly modified “that it bore almost no resemblance to the curriculum of his class.” (*Id.* at p. 39.) The present case is factually distinguishable. Student did not prove her general educational curriculum was modified. Further, no evidence proved Student’s grades were inflated or improperly awarded.

Other OAH decisions are more persuasive based on the facts of this case. In *Parent on behalf of Student v. Newport-Mesa Unified School District* (2010) OAH case number 2010060770, OAH held that the determination of a student’s proficiency is left to the school district and the IEP team. In that case, the parent argued that the student’s academic levels were the equivalent of the fourth to sixth grade and believed the school district should not have graduated the student. Like Parent in this case, the parent wanted to extend special education services beyond the point the student had completed the prescribed course of study. OAH held the school district did not deny the student a FAPE by awarding a regular high school diploma where the student completed the prescribed course of study with passing grades. The ALJ stated,

“While a district may not graduate a student in order to avoid an ongoing duty to provide an eligible student with special education and services, neither can a parent withhold consent to an IEP merely to maximize or extend special education services beyond the point where the student has completed the prescribed course of study offered by public education.”

(*Id.* at p. 13; see also *Parents on behalf of Student v. Modesto City Schools* (2022) OAH case number 2022080550 [student did not prove school district predetermined his path towards a regular high school diploma]; *Student v. Temecula Valley Unified School District* (2016) OAH case number 2016060613 [student who completed prescribed

course of study with passing grades was properly awarded diploma, and student did not prove she was incapable of absorbing material or that curriculum was modified].) OAH decisions are not binding precedent but may be persuasive authority. (Cal. Code Regs., tit. 5, § 3085.)

OAH's decisions in the foregoing cases are persuasive based on the facts in this case.

### STUDENT FAILED TO PROVE SONOMA VALLEY DENIED HER A FAPE BY AWARDING HER A REGULAR HIGH SCHOOL DIPLOMA AND GRADUATING STUDENT IN MAY 2024

Student failed to prove by a preponderance of the evidence that Student did not meet one or more of the requirements for a regular high school diploma. Sonoma Valley had established graduation requirements for the 2023-2024 school year. To graduate with a regular high school diploma, students had to earn passing grades in a minimum of 220 units in specific academic courses. Student's high school transcript reflected that she earned more than the minimum credits and completed all the State-required courses necessary to graduate with a regular high school diploma in May 2024.

Student met all of Sonoma Valley's requirements for graduation and the prescribed course of study designated in Student's IEP and earned a regular high school diploma. Student's IEP team did not consider placing Student on a certificate of completion track, although Parent desired this beginning in early 2023.

At the end of 12th grade, Student earned 240 units and a 3.22 cumulative grade point average. As reflected in the progress notes in the December 13, 2023 amendment IEP, Student met her previous goals in pragmatic language/communication, gross motor, writing a five paragraph essay, and reading comprehension. Student met her transition goal in education by identifying at least three colleges or training programs that could lead to her careers of interest and the entrance requirements. Student participated well in class and her protest behaviors had vanished. She could regulate her behavior within five minutes of a non-preferred task being presented with adult prompting.

No persuasive testimony or documentary evidence suggested Student's coursework was modified or her grades improperly inflated. The preponderance of the evidence established that the work reflected on Student's report cards during high school was accurate and reflected Student's work product. Further, the evidence suggested that at no time did Parent challenge the accuracy of Student's grades at the time they were earned.

Student failed to prove Sonoma Valley denied her a FAPE by awarding a regular high diploma in May 2024. Once all of Student's general education graduation requirements were met at the end of the 2023-2024 school year, Sonoma Valley was required to award Student a regular high school diploma, which it did, and Student's graduation with a regular high school diploma was appropriate.

Sonoma Valley prevailed on Issue 1a.

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## ISSUES 1b: DID SONOMA VALLEY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY TERMINATING STUDENT'S SPECIAL EDUCATION AND RELATED SERVICES AT THE MAY 28, 2024 IEP TEAM MEETING?

Student contends Sonoma Valley denied her a FAPE by terminating her special education and related services at the May 28, 2024 IEP team meeting. Sonoma Valley contends Student's right to special education and related services terminated upon earning a regular high school diploma and graduating from high school.

A student is no longer entitled to receive special education and related services following the award of a regular high school diploma. (34 C.F.R. § 300.102(a)(3)(iv) (2006); Ed. Code, § 56026.1, subd. (a).) A local educational agency is required to provide a student with a summary of academic achievement and functional performance when their eligibility terminates due to age or graduation with a regular diploma. The summary must include recommendations on how to assist the student in meeting their postsecondary goals. (34 C.F.R. § 300.305(e)(3).)

As discussed in Issue 1a, a preponderance of the evidence proved that by May 28, 2024, Student had met all of Sonoma Valley's requirements for completion of the prescribed course of study designated in Student's IEP. Student had earned the requisite 220 credits and completed the necessary courses. Once these general education requirements were met at the end of the 2023-2024 school year, Sonoma Valley was required to award Student a regular high school diploma. Following the award of a regular high school diploma, Sonoma Valley was no longer required to provide special education and related services to Student.

Other than arguing Student should not have been awarded a high school diploma, Student offered no evidence or legal authority supporting its contention that Sonoma Valley was obligated to continue to provide special education and related services to Student following her graduation.

Student failed to meet her burden of proving Sonoma Valley denied her a FAPE by terminating her special education and related services at the May 28, 2024 IEP team meeting.

Sonoma Valley prevailed on Issue 1b.

ISSUES 2a, 2b, AND 2c: DID SONOMA VALLEY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR IN IEPS DATED OCTOBER 13 AND DECEMBER 13, 2023, AND MAY 24, 2024, BY FAILING TO OFFER AN APPROPRIATE TRANSITION PLAN, APPROPRIATE TRANSITION GOALS, AND APPROPRIATE TRANSITION SERVICES?

Student contends that Sonoma Valley denied her a FAPE by failing to offer an appropriate transition plan, goals and services. Specifically, Student argues that Student had not been appropriately assessed, the transition goals were not individualized, and the transition services identified in the transition plan were inadequate to meet Student's needs. Student contends she was not prepared for post-secondary employment or education and had adaptive, communication, and academic deficits that required post-secondary transition services.

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In her closing brief, Student argues Sonoma Valley determined Student should pursue a career in the culinary arts although she lacked adaptive skills necessary to attend junior college or apply for a job. Student argues the activities to support the goals were “cut and pasted” from Student’s 2021 IEP. Student also argues the activities offered to support the goals were immeasurable, and the activity of conducting research did not provide an opportunity to gain real life experience.

Sonoma Valley contends that the transition plan, goals, and services offered in Student’s IEPs were appropriate and met Student’s unique needs. Sonoma Valley further contends that it conducted a transition assessment before the transition plan was offered on January 19, 2023, and modified the transition services in the November 13, 2023 amendment IEP, and reviewed Student’s transition plan at the December 13, 2023 amendment IEP team meeting. Student’s post-graduation plans were to attend community college and pursue a degree in culinary arts. Sonoma Valley contends the transition goals reflected Student’s post-secondary interests in education, employment and independent living. Sonoma Valley argues Student did not require goals in financial literacy and community access to receive a FAPE.

Beginning at age 16 or younger, a student’s IEP must include a statement of needed transition services for the child. (Ed. Code, § 56043, subd. (h).) The IEP in effect when a student reaches 16 years of age must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills. (20 U.S.C. § 1414(d)(1)(A)(i)(VIII); Ed. Code, §§ 56043, subd. (g)(1), 56345, subd. (a)(8).) The plan must also contain the transition services needed to assist the pupil in reaching

those goals. (34 C.F.R. § 300.320(b); Ed. Code, § 56345, subd. (a)(8)(A).) These goals and services are developed through an individualized transition plan that is incorporated into a student's IEP.

"Transition services" are defined in the IDEA as a coordinated set of activities for a student with a disability that:

- is designed with a results-oriented process, focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post-school activities, including post-secondary education, vocational education, integrated or supported employment, continuing and adult education, adult services, independent living, or community participation; and
- includes instruction, related services, community experiences, development of employment and other post-school adult living objectives and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. (20 U.S.C. § 1401(34); 34 C.F.R. § 300.43(b); Ed. Code, § 56345.1, subd. (a).)

A transition plan is a set of activities created to help the disabled student move from school to post-secondary activities. (20 U.S.C. § 1414(d)(1)(A)(VIII); 34 C.F.R. § 300.43; Ed. Code, § 56345.1, subd. (a).) Transition services may be special education if provided as specially designed instruction, or related services. (20 U.S.C. § 1401(34); 34 C.F.R. § 300.43(b); Ed. Code, § 56345.1, subd. (b).)

In summary, the IDEA requires IEPs for older students to include a plan for a coordinated set of services designed to move special education students successfully from high school to post-high school settings. Transition plans help students gain skills they will need when they graduate from high school or age out of special education when they turn 22 years old. Transition services emphasize the acquisition of functional skills and hands-on knowledge, enabling students to enter the workforce or continue their education or training. Such services also prepare students to eventually live as autonomously as possible, given the extent of their disabilities. Students with more severe disabilities may require transition services that emphasize development of functional or independent living.

Transition goals vary from other annual goals. Transition goals reflect the desires and plans of the student. (20 U.S.C. § 1401(34); Ed. Code, § 56345.1, subd. (a)(2).) In contrast, other annual goals state measurable standards by which the school district's program for the student will be measured by the end of the next 12 months. (20 U.S.C. § 1414(d)(1)(A)(i)(II).) Transition goals also address a student's career or post-secondary education after graduation. Progress on post-secondary goals cannot be measured while a student is still in high school.

The adequacy of a transition plan, goals, and services must be viewed as an aggregate considering the child's overall needs. (*J.L. v. Mercer Island Sch. Dist.* (9th Cir. 2010) 592 F.3d 938, 950-951.) Transition services, like special education and related services, are sufficient when a student is offered a FAPE under *Rowley*. (*Ibid.*) The test is whether the IEP, taken in its entirety, is reasonably calculated to enable the child to make progress in light of the child's circumstances. (*Andrew F., supra*, 137 S.Ct. 998, 999; *Lessard v. Wilton-Lyndeborough Cooperative School Dist.* (1st Cir. 2008) 518 F.3d 18, 30.) A flawed or missing transition plan is generally regarded as a procedural error.

(*Board of Education v. Ross* (7th Cir. 2007) 486 F.3d 267, 276; see also *M.L. v. Federal Way Sch. Dist.* (9th Cir. 2005) (Gould, J. concurring in part and concurring in the judgment) (procedural violations of the IDEA are subject to harmless error review).)

A procedural violation results in a FAPE denial only if it impeded the child's right to a FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the child, or caused a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E); Ed. Code, § 56505, subds. (f) & (j); see *W.G. v. Board of Trustees of Target Range Sch. Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1483-1484 (*Target Range*); *Rowley*, *supra*, 458 U.S. 176, at p. 200.)

When a transition plan fails to comply with the procedural requirements, but the individual transition plan or the IEP provides a basic framework sufficient to ensure that the student receives transition services that benefit the student's education, the procedural violation is harmless. (*Virginia S. v. Dept. of Education* (D.Hawaii, Jan. 8, 2007, Civ. No. 06-00128 JMS/LEK) 2007 WL 80814, \*10 (*Virginia S.*)). Therefore, a transition plan that is procedurally deficient, but does not result in a loss of educational opportunity, does not result in a denial of FAPE.

Student failed to establish that the transition plan, goals and services in the November 13, and December 13, 2023 amendment IEPs were not appropriate. Student also failed to prove that Sonoma Valley should have offered an individual transition plan, goals, or services in the May 24, 2024 IEP.

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## ISSUES 2a AND 2c: THE INDIVIDUAL TRANSITION PLAN AND SERVICES WERE APPROPRIATE

Sonoma Valley conducted Student's three-year evaluation and held an IEP team meeting on January 19, 2023. Prior to the January 19, 2023 IEP team meeting, Sonoma Valley conducted a transition assessment of Student using the Naviance College and Career Assessment program, called Naviance, to assess Student's strengths and interests in post-secondary college and career and independent living.

The January 19, 2023 IEP included an individualized transition plan with post-secondary goals based upon Student's age-appropriate assessment by education specialist Cook and related to skills in education, employment, and independent living. Cook testified at hearing. Cook worked as an education specialist and case manager for Sonoma Valley for six years. Cook served as Student's case manager and special education teacher during Student's ninth through 12th grade years, except for an extended period during Student's sophomore year when Cook was on leave. Cook's responsibilities as case manager included observing special education students in general education classes, check-ins with teachers and students, attending IEP team meetings, conducting transition assessments, and developing transition plans. Cook was responsible for collaborating with Student's general education teachers and providing Student individualized support as needed and monitoring Student's progress on her transition goals.

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Cook provided specialized academic instruction to Student in her study skills class throughout most of Student's ninth, 11th and 12th grade years at Sonoma Valley. Cook worked with Student on her IEP goals. Cook was responsible for conducting Student's transition assessments and developing Student's transition plans, and was familiar with Student's post-secondary goals.

At hearing, Cook explained that for students working toward a diploma, transition teachers worked with students in grades nine through 12, which included surveys and career inventories, meetings with students, and other activities, to explore and plan for each student's post-secondary options. Prior to the January 19, 2023 IEP team meeting, Cook administered the Naviance assessment to Student by having Student complete the online questionnaire, and interviewed Student about her post-secondary interests. Cook developed the individual transition plan based on her discussion with Student and Student's completion of the Naviance assessment. The individual transition plan was incorporated into the January 19, 2023 IEP document.

The individual transition plan documented that the assessment showed Student had an interest in attending junior college. Student demonstrated enthusiasm for work in the culinary field or working with computers. Student wanted to work as part of a collaborative team outside of an office environment. Student did not know how to fill out a job application and had not applied for a job. Student planned to initially live at home and get a job, but eventually hoped to live in the Los Angeles area with friends. She did not have a driving permit but planned to obtain a driver's license.

As discussed in more detail in Issue 2b below, based on the assessment and discussion with Student, Sonoma Valley developed three goals along with activities to support each goal in education/training, employment, and independent living. The

January 13, 2023 IEP team reviewed Student's individual transition plan, including the goals and activities to support the goals. The IEP team determined Student needed to further explore her career options to familiarize herself with career options. The IEP team offered Student an additional transition goal to support Student's desire to attend junior college. The goal was added into the goal portion of the January 13, 2023 IEP document. It sought for Student to identify at least three colleges or training programs related to her careers of interest and the entrance requirements for the program by January 18, 2024. To track Student's activities, she was required to document her research in her portfolio. Sonoma Valley's special education staff was responsible for implementing this goal. The four transition goals were based on the results of Sonoma Valley's transition assessment and reflected the specific post-secondary interests expressed by Student. The four post-secondary goals were properly linked to Student's annual goals in education/training, employment, and independent living.

The transition plan also contained a course of study, which documented that Student was working toward a high school diploma. It noted Student was enrolled in a course of study that would prepare her to graduate with a diploma. The courses Student would take included both the classes required for graduation and the electives selected by Student. The course of study was reviewed at the January 19, 2023 IEP team meeting, including the courses Student had completed, courses in which Student was currently enrolled, and the courses she still needed to graduate.

The January 19, 2023 IEP offered Student 40 minutes monthly college awareness services and 40 minutes monthly career awareness services, and 90 minutes weekly specialized academic instruction in the study skills class. Student did not offer evidence at hearing to challenge the adequacy of the transition services, or suggest Student required different or additional transition services.

Student and Parent attended the January 19, 2023 IEP team meeting, as continued to February 21, 2023. Student told the IEP team she wanted to attend Santa Rosa junior college after high school and take cooking classes. Parent expressed that Student should remain on the certificate of completion track. Although Parent communicated to the Sonoma Valley January 19, 2023 IEP team her concerns about Student's academic and adaptive living skill deficits, the Sonoma Valley IEP team members did not share these concerns. Parent did not consent to this IEP.

Student's individual transition plan was modified in the November 13, 2023 amendment IEP to include additional activities to support her post-secondary goal of enrolling in junior college or trade school and taking coursework in culinary arts. These activities included Student obtaining her food handler's certificate, signing up for services through the Department of Rehabilitation, and researching school and training opportunities available through that agency. The evidence suggested Student earned her food handler's certificate during the 2023-2024 school year and signed up for services through the Department of Rehabilitation.

In preparation for the December 13, 2023 amendment IEP team meeting, Sonoma Valley updated its transition assessment for Student. Cook interviewed Student and had Student complete an updated transition questionnaire on Naviance. Student continued to express interest in post-secondary education. Student wanted to attend junior college after high school and take courses in culinary arts.

The December 13, 2023 amendment IEP team reviewed Student's progress on her transition goals. Student met her IEP transition goal of identifying at least three colleges or training programs and the entrance requirements for the program. Student researched the positive and negatives aspects of each program.

At hearing, Cook persuasively testified that Student made the amount of progress needed on the January 19, 2023 transition goals to continue developing skills to graduate and be successful in postsecondary education and employment. Cook worked with Student on a variety of transition related activities during her study skills class. The study skills class was specially designed instruction. (20 U.S.C. § 1401(34); 34 C.F.R. § 300.43; Ed. Code, § 56345.1) Cook worked with Student during study skills on her transition goals. Cook persuasively opined that Student's desire to obtain her high school diploma and attend junior college was unwavering. She worked with Student on preparing her resume, toured a junior college, and took Student's class on community outings, including to a local junior college and restaurants. Student completed the Naviance assessments several times during high school to determine her postsecondary goals and interests, and researched possible schools, careers, and salaries.

Cook described in detail her observations of Student's functional skills, including paying for a bakery item with money and correctly counting her change, ordering food at a restaurant, and utilizing Google maps. Student researched careers, schools, and salaries using the Naviance computer program. During Student's senior year, she obtained a California Food Handler's Certificate and took culinary classes at Sonoma Valley in alignment with her postsecondary goals. Cook observed Student in her culinary class during fall 2023 and spring 2024. Student could read a recipe, measure ingredients, cut vegetables, cook in a pan, and plate and serve a meal.

Cook's testimony at hearing was candid, detailed, and persuasive. Cook presented as a conscientious case manager and special education teacher who knew Student well. Cook was knowledgeable about Student's career interests and post-secondary educational references and had a good recall of working with her.

At hearing, Parent expressed concerns about Student's ability to live independently. She was concerned Student could wander off, did not understand money, and could not fill out job applications. However, the evidence did not establish that Parent discussed these concerns with the IEP team, or that Sonoma Valley's IEP team members shared these same concerns at any time.

Furthermore, IDEA does not require a school district to ensure a student's ability to live independently. The IDEA is meant to create opportunities for disabled children, not to guarantee a specific result. (*Rowley, supra*, 458 U.S. 176, at p. 192.) An appropriate public education "does not mean the absolutely best or 'potential-maximizing' education for the individual child." (*Los Angeles Unif. Sch. Dist. v. A.O. by and through Owens* (9th Cir. 2024) 92 F.4th 1159, 1172 [quoting *Gregory K. v. Longview Sch. Dist.* (9th Cir. 1987) 811 F.2d 1307, 1313].)

Student failed to prove Sonoma Valley denied her a FAPE by failing to offer an appropriate individual transition plan in the November 13, and December 13, 2023 amendment IEPs. Student did not present persuasive evidence that the transition plan was inadequate. Student was given updated transition assessments through Naviance and interviewed for the transition plan on multiple occasions, including before the December 13, 2023 amendment IEP meeting. The transition plan was based on Student's individual needs and took into consideration Student's strengths, preferences, and interests. The transition plan's goals of attendance at a community college and pursuing a career in the culinary arts, learning how to apply for employment, and independent living provided a basic framework sufficient for Student to receive transition services to benefit her education. The plan was based on an assessment of Student's education/training, career, and independent living interests, developed with Student's participation, and aligned with the four post-secondary goals.

Student also failed to prove that the transition plan was substantively noncompliant with the law, or inappropriate for Student. The plan addressed Student's post-secondary educational interest in attending junior college. The plan addressed Student's career interest in the restaurant industry, and her goals of living independently and obtaining a driver's license. The plan was tailored to support Student while she acquired the skills under the guidance of Student's special education teacher. The individual transition plan offered Student sufficient time and services to work on her post-secondary goals. During the 2023-2024 school year, Sonoma Valley provided Student with opportunities to work towards her transition goals, including through study skills and culinary classes. To further prepare Student for post-secondary college and work force, Sonoma Valley took Student on community outings, including touring the local junior college. Student failed to prove that Student's individual transition plan and services were inappropriate.

Sonoma Valley prevailed on Issues 2a and 2c.

#### ISSUE 2b: TRANSITION GOALS WERE APPROPRIATE

In her closing brief, Student argues the goals were not measurable and were "cut and pasted" from prior years. Student further argues that the activities of conducting research, completing job applications, and publishing a resume did not provide Student an opportunity to gain real world skills. Student further contends Parent was not aware that Student had met her transition goals until the May 28, 2024 IEP team meeting.

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Sonoma Valley contends it offered an appropriate transition plan with goals, activities, and community experiences to support these goals. Sonoma Valley further contends the goals were developed based on an age-appropriate transition assessment and interview by the education specialist.

Student failed to prove the transition goals were inappropriate. The transition plan in the November 13, and December 13, 2023 amendment IEPs contained three transition goals in education/training, employment, and independent living. In education/training, Student had a post-secondary goal that upon completion of high school she would enroll in junior college or trade school and take coursework in culinary arts. The activities to support this goal were graduation from high school and researching junior colleges and trade schools. The community experiences to support this goal was identified as researching courses of study available at various junior colleges or trade schools.

In employment, Student had a post-secondary goal that upon completion of high school she would find employment in the culinary field. The activity to support this goal was identifying the qualifications needed in the restaurant business. The community experiences to support this goal were to practice completing job applications and publishing a resume, implemented by the special education teacher and other school staff.

In independent living, Student had a post-secondary goal of living on her own with friends. To support this goal, Student would research online sources for determining the costs of living in the areas she wanted to live. The community

experiences included researching requirements to obtain a driver's license or learn to ride the public transportation system independently. The persons identified as responsible for implementing this goal were identified as Student, family, and staff.

The January 13, 2023 IEP added an additional goal to help Student achieve her goal of attending junior college. The goal required Student to identify at least three colleges or training programs related to her career of interest and the entrance requirements for the program by January 18, 2024. The goal required Student to document her research in her portfolio. Sonoma Valley's special education staff was responsible for implementing this goal. The transition goals were appropriately based on Student's individual needs, taking into consideration Student's expressed preferences and interests in going to junior college, getting a job, and living away from home.

Sonoma Valley updated the transition plan at the November 13, 2023 amendment IEP meeting to include additional activities to help Student achieve her transition goals. Specifically, it added Student working towards obtaining her food handler's certificate, signing up for services through the Department of Rehabilitation, and researching school and training opportunities available through that agency.

At hearing, Student's expert, San Millan, agreed that Student's transition goal of working in the culinary field was appropriate. San Millan proposed a similar goal in her June 3, 2023 report and recommended Student attend a postsecondary program to learn cooking skills. San Millan also proposed goals in researching the minimum wage and learning how to apply for a job. Sonoma Valley's transition goals included similar activities, specifically learning how to complete job applications.

Education specialist Cook attended the November 13, and December 13, 2023 amendment IEP team meetings and credibly testified that the IEP team discussed the transition plan and goals. Parent was present and participated at these IEP team meetings.

Student's expert San Millan's testimony did not establish that Student's transition goals for post-secondary education and training, employment, and independent living were not appropriate or comprehensive, or opine on additional IEP goals required to address Student's transition needs. San Millan concurred that Student's goal of taking culinary classes was appropriate and aligned with her June 2023 report. She believed the transition goals of enrolling in junior college and living independently were not appropriate because Student's reading level was too low to attend college and she lacked skills to live independently. San Millan's testimony did not challenge the adequacy of the goals, but rather presumed Student's level of academic and adaptive functioning was so low that Student could not achieve the goals. San Millan's testimony was not persuasive because it presumed that a student with a disability must be prepared for independent living at the time they graduate and was based on incomplete assessments of Student.

Student's argument that the goals were "cut and pasted" was not persuasive. The evidence proved Sonoma Valley based the transition goals on an updated transition assessment and interview before the November 13 and December 13, 2023 amendment IEP team meetings. Sonoma Valley also updated Student's transition activities in the November 13, 2023 amendment IEP. Unlike annual goals that are measured by the end of the next 12 months, transition goals reflect the desires and plans of the student which may, as here, remain constant. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 20 U.S.C. § 1401(34); Ed. Code, § 56345.1, subd. (a)(2).)

Student's argument that the IEP transition goals were not measurable also was unpersuasive. Student's January 19, 2023 IEP contained a goal requiring Student to identify at least three colleges or training programs related to her career of interest and the entrance requirements for the program by January 18, 2024. The goal required Student to document her research in her portfolio. Sonoma Valley's special education staff was responsible for implementing this goal. As discussed, the transition goals were designed to allow Student to successfully transition to postsecondary education, employment and independent living.

Student failed to prove that the transition goals offered in the November 13, and December 13, 2023 amendment IEPs were inappropriate.

SONOMA VALLEY WAS NOT REQUIRED TO OFFER A  
TRANSITION PLAN, GOALS, AND SERVICES IN THE MAY 28,  
2024 IEP

As discussed in Issue 1b, Sonoma Valley was not required to provide Student with special education and services after it awarded Student a regular high school diploma. Sonoma Valley was not required to offer Student a FAPE, including developing a transition plan, goals, services after May 2024. Student offered no evidence or legal authority proving otherwise.

Sonoma Valley prevailed on Issue 2b.

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### ISSUE 3: DID SONOMA VALLEY DENY STUDENT A FAPE BY FAILING TO CONSIDER AN INDEPENDENT TRANSITION EVALUATION AT IEP TEAM MEETINGS HELD ON OCTOBER 13, 2023, AND NOVEMBER 13, 2023?

Student contends Sonoma Valley failed to meaningfully consider San Millan's independent educational evaluation. Student argues Sonoma Valley did not adopt any of San Millan's recommendations.

Sonoma Valley contends it considered San Millan's recommendations at the November 13, 2023 amendment IEP team meeting. Sonoma Valley contends it was not required to adopt San Millan's recommendations, and did not incorporate her recommendations because her assessment was incomplete and did not accurately reflect Student's academic and adaptive living skills.

The IDEA requires a school district to consider the results of an independent educational evaluation. (20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. § 300.502(c)(1) (2006); Ed. Code, § 56329, subd. (c).) The IDEA does not require a school district to adopt the conclusions of the evaluation. (*Michael P. v. Hawaii Dept. of Educ.* (9th Cir. 2011) 656 F.3d 1057, 1066, fn. 9 (*Michael P.*) [citing 34 C.F.R. § 300.502( c)(1)].)

Student did not prove by a preponderance of the evidence Sonoma Valley denied her FAPE by failing to consider San Millan's independent educational evaluation at the November 13, 2023 IEP amendment team meeting. There was no dispute that San Millan presented her report to the November 13, 2023 IEP team. San Millan agreed at hearing she presented her report and recommendations. Student's IEP team

considered San Millan's independent educational evaluation at the meeting, but did not agree with her recommendations and did not make any changes to Student's FAPE offer.

At hearing, multiple witnesses, including San Millan, Diaz, and Cook testified that San Millan's report was reviewed at the November 13, 2023 IEP team meeting. No evidence suggested San Millan was not permitted time to fully present her report. No evidence was offered that a properly constituted IEP team was not present while San Millan's shared her report and recommendations.

At hearing, Diaz and Cook each opined that they attended the November 13, 2023 IEP amendment team meeting and considered San Millan's report and recommendations. Diaz opined that San Millan's view of Student did not align with Sonoma Valley's understanding of Student's abilities and weaknesses. Diaz believed San Millan's report focused heavily on Student's low academic testing and weaknesses in verbal cognition and did not reflect Student's nonverbal intelligence. San Millan's report lacked important information about Student's performance in the school setting and focused on asking Student what she could do. The report lacked teacher input, observations, and Student work samples. Diaz opined that the November 13, 2023 IEP team considered San Millan's report and recommendations, but disagreed that Student required transition services until age 22.

Cook similarly opined at hearing that the November 13, 2023 amendment IEP team considered San Millan's report. Cook recalled that she disagreed with many of San Millan's findings about things Student could not do. Cook believed San Millan's report failed to recognize Student's adaptive and functional strengths, which she observed Student develop during high school. For example, Student could communicate

her needs, ask questions, and seek clarification when needed. Socially, Student had good relationships with teachers and peers. Student could express how she was feeling when given time to respond.

In her closing brief, Student argues that Sonoma Valley was required to meaningfully consider San Millan's independent evaluation. Student incorrectly relies on *Michael P.* In *Michael P.*, the Ninth Circuit Court of Appeals did not determine that the standard for review of an independent educational evaluation was meaningful consideration. (*Michael P., supra*, 656 F.3d 1057, 1066, fn. 9.) Rather, the Ninth Circuit noted the IDEA only requires a school district to consider the results of a parent-initiated evaluation; it does not require a school district to adopt the conclusions of such an evaluation. (*Ibid.*) Here, the weight of the evidence established San Millan presented her report and recommendations, but Sonoma Valley did not agree with San Millan recommendations based on her incomplete assessment.

Student failed to meet her burden of proving Sonoma Valley denied her a FAPE by failing to consider an independent educational evaluation at the November 13, 2023 amendment IEP team meeting. Sonoma Valley prevailed on Issue 3.

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ISSUE 4: DID SONOMA VALLEY DENY STUDENT A FAPE DURING THE 2023-2024 SCHOOL YEAR BY PREDETERMINING ITS DECISION TO AWARD STUDENT A HIGH SCHOOL DIPLOMA AND TERMINATE HER SPECIAL EDUCATION AND RELATED SERVICES AT IEP TEAM MEETINGS HELD ON OCTOBER 13, AND DECEMBER 13, 2023, AND/OR MAY 28, 2024?

Student contends that Sonoma Valley predetermined its decision to award her a high school diploma and terminate her special education and related services at IEP team meetings held on November 13, and December 13, 2023, and May 28, 2024.

Sonoma Valley contends Student did not meet her burden of proof on this issue. Sonoma Valley contends that Student was on the diploma track since her freshman year and met graduation requirements for a regular high school diploma. Sonoma Valley argues the November 13, and December 13, 2023 amendment IEP teams and the May 28, 2024 IEP team listened to and considered Parent's request to move Student to a certificate of completion track, but did not agree with Parent's request.

Pretermination occurs when placement is determined without parental involvement in developing the IEP. (34 C.F.R. §§ 300.327, 300.501(c)(1); *Deal v. Hamilton County Bd. of Educ.* (6th Cir. 2004) 392 F.3d 840, 858 (*Deal*)). A school district violates the IDEA if it predetermines placement for a student before the IEP is developed or steers the IEP team to a predetermined placement. (*Target Range, supra*, 960 F.2d 1479, 1484.) A school district predetermines an offer when it presents one placement option at an IEP team meeting and is unwilling to consider other alternatives. (*H.B., et al., v. Las Virgenes Unified School Dist.* (9th Cir. 2007) 239 Fed.Appx. 342, 344; *Ms. S. v. Vashon Island Sch. Dist.* (9th

Cir. 2003) 337 F.3d 1115, 1131 (*Vashon Island*) [“a school district violates IDEA procedures if it independently develops an IEP, without meaningful parental participation, and then simply presents the IEP to the parent for ratification.”].)

A school district’s unwillingness to consider any other placement also constitutes predetermination. (*K.D. ex rel. C.L v. Dept’s of Educ., Hawaii* (9th Cir. 2011) 665 F.3d 1110, 1123.) A district may not arrive at an IEP team meeting with a “take it or leave” it offer. (*J.G. Douglas County School Dist.* (9th Cir. 2008) 552 F.3d 786, 801, fn. 10, citing *Vashon Island, supra*, 337 F.3d 1115, at p. 1131.) An IEP is not predetermined simply by meeting to discuss a child’s programming in advance of an IEP team meeting. (*N.L. v. Knox County Sch.* (6th Cir. 2003) 315 F.3d 688, 693, fn. 3 (*Knox County Sch.*)). Although school district personnel may bring a draft IEP to the meeting, parents are entitled to a full discussion of their questions, concerns, and recommendations before an IEP is finalized. (*Fuhrmann, supra*, 993 F.2d 1031, at p. 1036; *Assistance to States for the Education of Children with Disabilities and the Early Intervention Program for Infants and Toddlers with Disabilities* 64 Fed. Reg. 12406, 12478 (March 12, 1999).)

Parents have meaningfully participated in the development of an IEP when they are informed of their child’s problems, attend the IEP team meeting, express their disagreement regarding the IEP team’s conclusions, and request revisions in the IEP. (*Knox County Sch., supra*, 315 F.3d 688, 693, fn. 3.) The IEP team must consider the concerns of the parent for enhancing the student’s education, as well as information provided by the parent about the student’s needs. (20 U.S.C. § 1414(d)(3)(A) & (d)(4)(A)(ii); 34 C.F.R. § 300.324(a)(1)(ii) & (b)(1)(ii)(C); Ed. Code, § 56341.1, subds. (a)(2), (d)(3), & (f).)

The IDEA does not require a school district to accept the parents' choice of programs, but it must consider suitable alternatives. (*Shaw v. Dist. of Columbia* (D.D.C. 2002) 238 F.Supp.2d 127, 139 (*Shaw*) [IDEA does not provide for an "education ... designed according to the parents' desires."], citing *Rowley, supra*, 458 U.S. 176, at pp. 207-208.) 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.*; see also *Crofts v. Issaquah Sch. Dist. No. 411* (9th Cir. 2022) 22 F.4th 1048, 1056.) Developing an IEP that does not fully conform to a parent's wishes does not mean the school district engaged in predetermination. (*Gregory K, supra*, 811 F.2d 1307, 1314.) The Ninth Circuit has held that while the school district must allow for meaningful parental participation, it has no obligation to grant the parent a veto over any individual IEP provision. (*Vashon Island, supra*, 337 F.3d 1115, 1131.)

Predetermination is a procedural violation under the IDEA. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.501(b) and (c)(1); Ed. Code, § 56304, subd. (a).) The failure to provide necessary information at an IEP team meeting deprives parents of the ability to meaningfully participate in the meeting and renders them unable to have informed discussion with the district IEP team members. (*Timothy O. v. Paso Robles Unified Sch. Dist.* (9th Cir. 2016) 822 F.3d 1105, 1125-1126.)

Student did not prove Sonoma Valley denied her a FAPE by predetermining its decision to award a high school diploma and terminate her special education and related services at IEP team meetings held on November 13, and December 13, 2023, and May 28, 2024. Here, Parent was not excluded from meaningful participation in the decision-making process. Parent took an active role in the discussion at each IEP team meeting. Starting in January 2023, the IEP teams that met on January 19, February 21,

May 23, November 13, and December 13, 2023, and May 28, 2024, listened to Parent's concerns about Student graduating with a high school diploma and her belief Student required additional post-secondary supports. For example, the May 23, 2023 amendment IEP team explained the differences between a regular high school diploma and a certificate of completion. The IEP team discussed the transition services available to Student after graduation through the California Regional Center and Department of Rehabilitation, including supports in daily living and transportation.

When the parties reached an impasse, Sonoma Valley took steps to resolve the dispute, including scheduling a mediation with Parent with OAH and referring Student for an additional referral through the Diagnostic Center. Although Parent disagreed with Sonoma Valley's decision to graduate Student, the evidence did not establish that Sonoma Valley failed to discuss this issue or consider Parent's concerns in the IEPs at issue. An IEP need not conform to a parent's wishes to be sufficient of appropriate. (*Shaw, supra*, 238 F.Supp.2d 127, 139, citing *Rowley, supra*, 458 U.S. 176, 207.) When an individual with exceptional needs completes the prescribed course of study and has passed proficiency requirements, she is entitled to a diploma. (Ed. Code, § 56026.1, subd. (b).)

In her closing brief, Student argues that the December 13, 2023 amendment IEP team's acknowledgment about Student's deficits mentioned by Parent proved Sonoma Valley did not meaningfully consider Parent's concerns and was unwilling to deviate from its position that Student was appropriately working towards a regular high school diploma. The December 13, 2023 amendment IEP team notes referenced Parent's concerns about Student's inability to initiate conversations and behavior such as pulling her hair and biting her lips at home. In response, Sonoma Valley's IEP team members, including the speech language pathologist and Student's adapted physical education

teacher responded to Parent's concerns. While Sonoma Valley did not agree to Parent's requests, that does not mean the IEP was predetermined or inappropriate. Sonoma Valley was not required to accept Parent's request to change Student to the certificate of completion track to avoid a finding of predetermination. (*Vashon Island, supra*, 337 f.3d 1115, 1131-1132.)

Cook's and Diaz's testimony and the IEP team meeting notes refute Student's contention of predetermination. The evidence showed that the Sonoma Valley IEP team members came to the November 13, and December 13, 2023 amendment IEP team meetings with open minds and considered Parent's preferred option of Student changing to a certificate of completion track. Sonoma Valley's willingness to consider Parent's request was supported by Sonoma Valley's referral of Student to the Diagnostic Center to obtain a neutral, third-party assessment and evaluation of Student.

Accordingly, Student failed to prove by a preponderance of the evidence that Sonoma Valley predetermined its decision to award Student a high school diploma and terminate her special education and related services at the IEP team meetings held on November 13, and December 13, 2023, and May 28, 2024. Sonoma Valley prevailed on Issue 4.

## 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, SUBSECTIONS a AND b:

Sonoma Valley did not deny Student a FAPE during the 2023-2024 school year by awarding Student a diploma and graduating Student and terminating Student's special education and related services at the May 28, 2024 IEP team meeting.

Sonoma Valley prevailed on Issue 1, subsections a. and b.

## ISSUE 2, SUBSECTIONS a, b, AND c:

Sonoma Valley did not deny Student a FAPE during the 2023-2024 school year in IEPs dated October 13 2023, December 13, 2023, and May 24, 2024, by failing to offer an appropriate transition plan, appropriate transition goals, and appropriate transition services.

Sonoma Valley prevailed on Issue 2, subsections a., b., and c.

## ISSUE 3:

Sonoma Valley did not deny Student a FAPE by failing to consider an independent transition evaluation at IEP team meetings held on October 13, 2023, and/or November 13, 2023.

Sonoma Valley prevailed on Issue 3.

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#### ISSUE 4:

Sonoma Valley did not Student a FAPE during the 2023-2024 school year by predetermining its decision to award Student a high school diploma and terminate her special education and related services at IEP team meetings held on October 13, 2023, December 13, 2023, and/or May 28, 2024.

Sonoma Valley prevailed on Issue 4.

#### ORDER

All Student's requests for relief are denied.

#### RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings