

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

PARENTS ON BEHALF OF STUDENT

v.

MOUNT DIABLO UNIFIED SCHOOL DISTRICT

CASE NO. 2025080440

DECISION

APRIL 14, 2026

On August 5, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Parents on behalf of Student, naming Mount Diablo Unified School District. On October 15, 2025, OAH granted Student's motion to amend the due process hearing request. Following a joint request by the parties, OAH granted a continuance of the due process hearing on November 17, 2025. Administrative Law Judge Chris Butchko, called the ALJ, heard this matter by videoconference on January 13, 14, 15, 21, and 22, 2026, and February 3, 4, 5, 11, and 12, 2026.

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Attorney Kristin Springer represented Student. Parents attended all hearing days on Student's behalf. Attorney David Mishook represented Mount Diablo, accompanied by co-counsel Ali Brown. Suzy Williams, Mount Diablo's Director of Alternate Dispute Resolution for special education, attended all hearing days on Mount Diablo's behalf.

At the parties' request, the matter was continued to March 13, 2026, for written closing briefs. The parties timely filed the closing briefs, and OAH closed the record and deemed the matter submitted on that date.

This Decision does not cite to the administrative record because it was not available before the issuance of this Decision. Therefore, OAH decisions do not include citations to the record. OAH Decisions are written in an accessible font and format as required by state and federal law.

## STUDENT'S MOTION TO STRIKE MOUNT DIABLO'S CLOSING BRIEF

At the end of hearing, the ALJ ordered the parties to submit closing briefs that were no longer than 35 pages. The ALJ stated that the event timelines section would be exempted from the page limit. The instructions given to the parties at hearing were intended to ensure the parties would not neglect to present the sequencing of events because they were short of space to make their legal arguments. The ALJ's instructions were that it be "a separate section; it is a timeline of events. It has facts, it does not have arguments." Pages presenting a timeline were exempted from the page limit.

On March 16, 2026, Student filed a motion to strike Mount Diablo's 50-page closing brief because it exceeded the 35-page limit. Mount Diablo filed an opposition on March 16, 2026, noting the instructions given at hearing exempted a "prefatory timeline of events" from the page limit. Mount Diablo noted that its legal argument

section was only 23 pages long and thus well under the limit of 35 pages when the 21-page factual background was excluded from the page count. The first five numbered pages of Mount Diablo's brief contain the caption, an index, and a table of authorities, and no narrative.

In a Reply filed the same day, Student argued that fairness required the strict enforcement of the 35-page limit. Student contends that Mount Diablo's narrative factual background, unlike Student's timeline of events, was riddled with advocacy and thus conferred an unfair advantage.

Student's brief has 34 pages of legal analysis and argument, plus nine pages of timeline, for a total of 43 pages. Mount Diablo did not break out its timeline into a separate document. Instead, it designated a section as "Background," providing a narrative running from the middle of page seven through page 27. Pages 28 to 50 of Mount Diablo's brief are legal analysis and argument. Mount Diablo's overlength did not give it an advantage in presenting argument.

Student is correct that Mount Diablo's narrative included more than factual recitations. The Background section mentioned gaps in the evidence and characterized some of the evidence, as well as included some analysis and speculation. There was not, however, any case citation or legal argument in the section. The instructions to prepare a timeline did not specifically exclude using narrative form.

Student cites 19 examples of sentences in the Background section containing argument or commentary on evidence. Even if half of the 20 pages of Mount Diablo's factual background were counted against Mount Diablo's page limit because of those 19 sentences, it would still be within the page limit. Student's objection has merit only if

Mount Diablo is given no space to present an event timeline. Given that the page limit instruction may not have been clear to the parties and the legal argument section of Mount Diablo's brief is significantly shorter than Student's argument, it is fair to accept Mount Diablo's brief as presented.

Student's motion to Strike Mount Diablo's closing brief is denied.

## ISSUES

A free and public education is called a FAPE. An individualized education program is called an IEP.

1. Did Mount Diablo deny Student FAPE during the 2024-2025 school year in IEPs dated April 2024, as amended on September 6, 2024, and March 17 and April 17, 2025, by failing to offer:
  - a. adequate goals to address Student's behavior, social, and mental health needs;
  - b. appropriate services to address Student's behavior, social, and mental health needs; or
  - c. placement in the least restrictive environment?

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2. Did Mount Diablo deny Student FAPE during the 2024-2025 school year by:
  - a. failing to materially implement its offer of home hospital instruction offered in the March 17, 2025 IEP;
  - b. failing to convene an IEP team meeting in response to Parents' requests in June and July 2025, for Mount Diablo to update Student's IEP;
  - c. failing to timely respond to Parent's July 24, 2025, request for a comprehensive evaluation of Student;
  - d. inappropriately changing Student's placement by disenrolling Student from Mount Diablo in July 2025; or
  - e. failing to timely provide a prior written notice following its disenrollment of Student in July 2025?
  
3. Did Mount Diablo deny Student FAPE during the 2025-2026 school year in the October 2, 2025 IEP by failing to offer:
  - a. adequate goals to address Student's behavior, social, and mental health needs;
  - b. appropriate services to address Student's behavior, social, and mental health needs; or
  - c. placement in the least restrictive environment?

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## JURISDICTION

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

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

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Student had the burden of proof on all issues. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 15 years old and in high school at the time of the hearing. Student's family resided within the boundaries of Mount Diablo at all relevant times. Student was eligible for special education due to autism, specific learning disability, and other health impairment. Student has above-average cognitive ability.

## STUDENT'S NEEDS AND PREVIOUS PLACEMENTS

Student has long-standing academic, social, and mental health challenges, which were known by Mount Diablo. Student began attending school in Mount Diablo's kindergarten class. According to an assessment conducted when Student was in the third grade, Student received classroom accommodations from first grade, due to academic concerns connected with Student's diagnosed frontal lobe epilepsy. In first grade, Student was taunted and physically assaulted by a group of children. Student developed an anxiety disorder and began taking medication.

Early in second grade, Student was hospitalized after being restrained from walking into traffic following a period of acute anxiety, caused by discussion of a change in the school schedule following a break. The treating psychiatrist concluded the act was prompted by Student's anxiety and impulsivity, which the doctor found consistent with possible post-traumatic stress disorder and attention deficit hyperactivity disorder, called ADHD. Parent removed Student from Mount Diablo and Student attended St. Francis of Assisi School for second grade. During that year, Student began individual therapy with a psychologist, working on a "complex constellation of learning and emotional difficulties," including emotional regulation, trauma, and peer difficulties.

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In 2019, early in Student's third-grade year, Mount Diablo referred Student for an individual education evaluation, which was conducted by Dr. M. Alex Peterson, a pediatric neuropsychologist. The assessment found that Student had

- difficulty sustaining attention,
- fine motor control issues,
- limited impulse control and self-regulation,
- emergent difficulties in planning and organization, and
- poor mental flexibility.

The evaluation found that Student would get overwhelmed at school and feel anxiety. Student also had social rigidity and emergent symptoms of depression and oppositional behavior, although the assessor noted that Student had a "close and supportive" relationship with family. Academically, Student had limited reading skills and math skills significantly below grade-level expectations. In conclusion, the evaluator found that Student met the criteria for ADHD and post-traumatic stress disorder, as well as specific learning disability due to impairment in reading, writing, and mathematics.

Mount Diablo held an initial IEP team meeting on November 11, 2019. The team noted Student's attention difficulties, limited graphomotor skills, and significant challenges with executive functioning, impulse control, mental flexibility, and short-term memory. It found Student struggling with reading and mathematics. The team also reported that Student had anxiety, a negative self-image, suffered stress, and was at risk for depression. However, it noted that Student was well supported at home. The team reviewed a functional behavior report which found that Student had an average of three

verbal outbursts per week with an average duration of 10 minutes. The team found Student eligible for special education due to other health impairment and specific learning disability and offered Student a general education placement with accommodations and two hours per week of specialized academic support. Parents declined the offer and kept Student at St. Assisi.

Student remained at St. Assisi through fifth grade. While at the school, Student received services in academics, mental health, dialectical behavior therapy, and occupational therapy. The record does not indicate that Mount Diablo was aware Student was receiving these specific services, but they were funded following a settlement of a case filed by Parents against Mount Diablo. By fifth grade, Student was suffering increasing difficulties keeping up with academics and dealing with peers. Student began attempting to leave the school campus due to anxiety.

Parents obtained another evaluation in May of 2022, late in Student's fifth-grade year, by Dr. Bylund. The report's conclusions echoed those of the Peterson report, further finding that Student's difficulties with reading and writing and Student's depressive disorder had elevated to a severe level. Parents shared the report with Mount Diablo, and it was presented by Elaine Rehm, who was at that time Mount Diablo's school psychologist, at a May 17, 2023 IEP team meeting.

Dr. Bylund determined that Student needed social skills training, behavioral interventions, and to have a functional behavior analysis conducted. Student also had phonological processing, orthographic processing, and rapid naming deficits as well as

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difficulty with written expression due to dyslexia and dysgraphia. The assessment also detailed Student's struggles with mathematical computation skills which included procedural knowledge and execution. Dr. Bylund diagnosed Student with

- autism spectrum disorder - high functioning,
- ADHD,
- specific learning disability in reading,
- written expression,
- dysgraphia, and mathematics,
- dyslexia,
- dyscalculia,
- major depressive disorder, and
- generalized anxiety disorder.

The assessment also provided recommendations for working with Student on social emotional functioning explaining that Student's behaviors are not intentional and should not be viewed as a learning disability but rather challenges with emotional regulation, frustration tolerance, social problem solving, and flexibility.

Parents removed Student from St. Assisi for sixth grade. Student attended Core Academy through January 2023. Student was ejected from the school due to violating the school's zero tolerance policy for bullying by sending an email threatening a classmate. Student then began attending the Springstone School, a non-public school for neurodivergent students. Student was placed there by agreement with Mount Diablo through the alternative dispute resolution process.

Mount Diablo held an IEP team meeting on May 17, 2023. At the meeting, Ms. Rehm presented her new psychoeducational assessment of Student. Ms. Rehm explained that Student's medical findings of post-traumatic stress disorder, anxiety, and ADHD should be considered as having an adverse effect on Student's ability to access the educational setting. Ms. Rehm noted that Student had a history of requiring frequent and direct supervision to complete any work in class and without the supervision, Student would either do little or no work or would fail to comply and at times escalate to outbursts that included crying, yelling, protesting, and refusal. Student's history also indicated that Student's behaviors impeded the learning of others as well. The report also noted Student's history of:

- fine motor coordination delays;
- deficits in phonological skills;
- deficits in orthographic skills;
- reading delays;
- very elevated levels of inattention;
- hyperactivity;
- oppositional defiance;
- conduct disorder;
- depression; and
- anxiety.

The IEP team determined that Student continued to meet the eligibility criteria under autism and specific learning disability. It also found a tertiary eligibility under other health impairment due to Student's significant ADHD-like behaviors impacting

executive functioning skills and regulation across home and school environments. The IEP team noted Student's anxiety-related, social, and emotional challenges. The IEP team agreed to a non-public school placement at Springstone. Student would receive 345 minutes daily of specialized academic Instruction, with embedded speech and occupational therapy and 60 minutes weekly of individual counseling provided through a non-public agency, in addition to continued accommodations. The IEP team agreed to reconvene an IEP team meeting in 30 days to review Student's progress at Springstone. Student was assigned Sara Cabezas, a behavior health specialist from Mount Diablo, to work with while at Springstone.

Student initially fit in well at Springstone and seemed to be adapting. However, after a few months, maladaptive behaviors began to emerge. Student resumed self-harming behaviors. Springstone staff notified Ms. Cabezas in late August that Student had resumed gouging with a pencil when other students interrupted the teacher. On September 6 through 8, 2023, Student went on a three-night trip to Camp Arroyo as part of the Springstone program. While at camp, Student informed staff that Student had found a place to jump from to commit suicide. Student had told the Springstone Principal a few days earlier of having dark thoughts and feeling a lot of pain.

When Student returned from the trip, Parents immediately took Student to John Muir Hospital where Student was placed on an involuntary mental health hold. Student stopped attending Springstone on September 15, 2023. Following the hold, Student attended intensive outpatient treatment at John Muir for roughly two weeks and then Parents placed Student in a residential treatment program until November 2, 2023. The discharge notes that Student resisted treatment until given a set date on which Student would be discharged. Student's behavior improved at that point, but the discharge report noted that Student continued to beg to come home, make unreasonable

demands, and threaten suicide. Upon release, Student was kept at home with academic instruction from Mount Diablo until December 11, 2023, when Student began attending Tilden Preparatory School. The record is unclear on the point, but it appears that Student was placed at Tilden by agreement between Parents and Mount Diablo.

In response to Student's exit from Springstone, Mount Diablo proposed to assess Student for educationally-related mental health services. Burke Educational Consulting conducted the assessment which was reviewed at an IEP team meeting on January 19, 2024. The Burke assessor spoke with Student's therapists, family, and teachers. The report noted that Student had many "concerning behaviors, such as mild suicidal ideation," but also numerous protective factors, including "strong family support." It concluded that Student needed mental health services, without which "symptoms are predicted to worsen, and self-harm and suicidal ideation increase." It noted that placement at a residential treatment center was not indicated at that time as Student was not considered to be a danger to self or others and Student's needs could be met in a lesser restrictive environment. After considering the report, the team offered two placement proposals at Mount Diablo schools. Parents were amenable to the idea of touring one of the programs, a Social Emotional Education Collaborative program, called SEEC. The meeting was adjourned to follow up on the proposed visit.

Student continued at Tilden while a new placement was being discussed. The program Student attended at Tilden offered students one-to-one direct instruction. Student attended about four hours each day and again did well initially, but began to decline within a few weeks. At Tilden, Student began to perseverate, or obsess, on incidents at Springstone where a student had touched other students on the bottom. Around January 26, 2023, Student wrote a short story where the character stated that

they did not want “to live in constant fear” of being sexually assaulted. Tilden staff were alarmed by the suggestion of suicidal ideation and notified Parents. Student remained at Tilden.

The Mount Diablo IEP team met again on March 5, 2024, and Ms. Cabezas added a goal for the educationally related mental health services. The goal stated that Ms. Cabezas would work with Student to independently utilize cognitive or dialectical behavior therapy techniques when Student became upset or dysregulated, based upon an approximation that Student was doing so in two of 10 opportunities. It did not address the causes of the upset or dysregulation and was adopted by the team without reported discussion. All the other goals were carried over, unchanged, from the May 17, 2023 IEP team meeting.

During that time, Student wanted to return to a normal life and pressured Parents to allow Student to return to public school. As a result, Parents and Mount Diablo entered into an agreement on March 18, 2024, through an alternative dispute resolution process to put Student into a “diagnostic placement” at Diablo View Middle School. For the first month, Student would attend five of the seven school periods as a transition and would receive two sessions of counseling twice weekly. One of Student’s school periods would be a specialized academic instruction class. After 30 days, a review IEP team meeting would be held with the plan to return Student to full-time attendance. In consideration, Parents waived all claims connected to Student’s education through April 30, 2024, and declined placement in the supportive SEEC program.

Student began attending Diablo View on March 21, 2024. The IEP team met to review Student’s progress on April 24, 2024. The meeting also functioned as Student’s annual IEP team meeting. Despite starting late in the school year, Student appeared

to be doing well enough socially. Student was doing poorly in English class, carrying a D grade and missing some assignments. Student was also struggling to complete mathematics assignments. The team decided it was appropriate to expand Student's day to a full seven periods and continue the placement at Diablo View. The team again carried over unchanged the prior goals from the May 17, 2023 IEP team meeting, with the additional goal from March 5, 2024.

Ms. Cabezas saw Student twice weekly at Diablo View during the last months of the 2023-2024 school year, continuing the work she had done with Student at Springstone. Student would become dysregulated during the sessions and often came into sessions dysregulated. She worked with Student on regulating emotions during conflicts with peers and developing tolerance skills. On May 23, 2024, Ms. Cabezas informed the Principal at Diablo View that there were frictions that had occurred between Student and a peer group. Ms. Cabezas wanted to come up with a plan to support Student and protect against bullying or instigating behaviors. The Principal responded that the administration would look into adding supports in the fall of the upcoming 2024-2025 school year. The school year ended on June 4, 2024.

The IEP team met again about four weeks into Student's eighth-grade year on September 6, 2024. Student was doing well and keeping current with assignments. Ms. Cabezas discussed Student's attitude and socialization. She told the team Student was doing the best Ms. Cabezas had ever seen. Student was starting to make friends, although not with grade-level peers. Most of Student's friends were in the seventh grade. The IEP team also noted that Student would be applying to Clayton Valley Charter High School for the next year. The team again carried over unchanged the prior goals from the May 17, 2023 IEP, with the additional goal from March 5, 2024.

By mid-October, Parent reported that Student was in crisis. On October 23, 2024, Parent wrote to Student's case manager, who also was Student's academic support teacher, and informed him that Student was suffering physical impacts from school stress, including vomiting and panic attacks, particularly concerning mathematics. Parent met with Student's case manager, and they discussed lowering Student's stress level and helping Student complete work, which was effective for a few weeks until Student's case manager noticed that uncompleted work started to pile up again.

By mid-November, Ms. Cabezas felt Student's year had turned for the worse. Student was on a bad path, struggling with peers and feeling misunderstood by staff. Student wanted to make grand gestures in class. Although Student could work on goals in session, Student was not able to independently apply what had been learned.

Around this time issues arose in connection with a friend Student had made in the summer between seventh and eighth grade. Parents thought the friend was a bad influence on Student and particularly bad for Student's younger sister. Student had always tended to focus obsessively on certain persons, which is common for people with autism. Parents forbade Student from contacting the friend. On December 6, 2024, Student used the school computer to try to send an email to the friend, which was intercepted by Diablo View staff. In the email, Student referenced having a fight with Parents and committing self-harm. Diablo View informed Parents about the email and the reference that day.

At home that day, Parents confronted Student about the email. Student asked to be allowed to talk to the friend. When Parents refused, Student again self-harmed. Student was again taken to John Muir for treatment on an involuntary psychiatric hold.

Parent notified Student's case manager of the hospitalization on December 11, 2024, and asked for an emergency meeting of the IEP team to determine the best path forward following Student's act of self-harm and hospitalization. On December 12, 2024, Parent met with Student's case manager and Diablo View's Principal. The report of the meeting noted that "Doctors are recommending residential. The parent believes this will be counterproductive." Parent reported that Student would be entering an intensive outpatient program upon release for three days each week, but wanted Student to continue with school. Parent proposed a reduced schedule and a reduced workload. Mount Diablo did not make a FAPE offer at the meeting, but Parent's proposal was put into effect when Student started outpatient treatment in January 2025.

Student returned to Diablo View on December 12, 2024, after being released from the psychiatric hold. No incidents occurred before winter break began on December 20, 2024. Parents applied for a place at Clayton Valley Charter through the lottery system shortly after the start of the calendar year. School resumed on January 6, 2025.

Student returned to school and announced a new name and gender identity. Student's case manager noted Student had taken to wearing heavy dark make-up, had black dyed hair, and had changed gender expression. Ms. Cabezas saw that Student was not able to return to baseline functioning. Student was more oppositional and defiant. Student was having difficulties at school and at home. Student felt that peers were disrespectful and became confrontational and argumentative. Ms. Cabezas notified Student's teachers that Student would be interrupting classes to make statements about their gender identity. From January through mid-February, Ms. Cabezas saw Student become more dysregulated during their sessions and be

dysregulated in every session. Student's case manager also noticed an increase in negative social interactions and heard through the student "grapevine" that there had been a few altercations.

On January 13, 2025, Student was given an in-school suspension for punching another student. They had been arguing and Student felt that the other was not welcoming to or respectful of students of differing sexual identities. Parents began searching Student's belongings for weapons each morning after finding a sharp paring knife in Student's backpack.

Student punched a classmate on February 14, 2025, after the other student made a comment about an actor in a movie the class was watching looking like a "drug addict." This was an offshoot of a long-stewing dispute between the two. Student was given a one-day suspension and sent home. At home, Student became upset and destructive, and was once again placed on an involuntary psychiatric hold at John Muir. Parents notified Student's case manager by email on February 16, 2025, about the hospitalization. Parents contacted The Ridge in Maine, a residential treatment center, on February 18, 2025, to obtain a spot for Student. Student entered The Ridge on February 26, 2025.

The IEP team met on March 17, 2025. Prior to the meeting, Parents had shared a letter from Dr. Singh, who was Student's attending physician at John Muir. Dr. Singh stated Student "would benefit from a school based, in state residential treatment facility where [Student] is supervised and receiving treatment to meet [Student's] emotional and behavioral needs." Student's case manager believed that Dr. Singh's letter implied

Student needed mental health support more than educational help. According to the notes of the IEP, 12 people attended the meeting. The entire summary of the meeting reads as follows:

“This is an emergency IEP meeting for [Student]. The parents shared that [Student] is at a facility in Maine receiving care for [their] mental health issues. The family requested a home and hospital placement for student. The team agreed on a 30 day placement.”

The sole change to the IEP was to place Student on a home and hospital program for 30 days. The team again carried over unchanged the prior goals from the May 17, 2023 IEP, with the additional goal from March 5, 2024.

Parents appended notes to the IEP team meeting report summarizing input at the meeting from Student’s mathematics, physical education, and core teachers, Ms. Cabezas, Parent, and Parent’s educational consultant. The mathematics teacher reported that Student was stressed, with variable moods, and wore headphones in class. The physical education teacher noted “[s]ome days [Student] was disconnected, would sit out and want to leave the area.”

The core teacher saw a big change in Student after winter break. Student could not sit, would speak constantly, and respond in ways that were not relevant to the discussion. Student’s grades had slumped. Ms. Cabezas reported Student showed a “steady decline” and an inability to regulate emotions. After the December hospitalization, Ms. Cabezas saw Student engage in risk-taking behaviors, show “no buy-in” to education, and display an uncompromising attitude. The Mount Diablo IEP team members did not dispute Parents’ summary.

Mount Diablo was unable to provide the home and hospital instructional service at The Ridge. Administrators from The Ridge reported that Student was too dysregulated to attend the academic block set aside for instruction. Mount Diablo followed up with The Ridge, but, by the time The Ridge informed Mount Diablo that Student might be ready to receive the instruction, it had already scheduled Student's release a few days later. The Ridge dissuaded Mount Diablo from beginning home and hospital instructional service at that time.

On April 1, 2025, Student's counselor at The Ridge wrote a letter at Parents' request describing the factors causing Student's difficulty in attending school, including

- anxiety,
- elevated and extreme mood fluctuations,
- inability to understand and present emotions and social cues,
- grandiosity, and
- impulsivity.

The impairments were typically outside of Student's control and would lead to risk of depression and lower academic achievement. As The Ridge was a short-term facility, the counselor recommended a "long term therapeutic environment, with consistency, specialized lesson planning, smaller classes, therapeutic rapport, and less distractions and difficulties typically seen in current environment." Parent provided the letter to Mount Diablo as an attachment to an email sent on April 2, 2025.

The IEP team met again on April 17, 2025. Student's new case manager proposed placement at the SEEC program for the remainder of the 2024-2025 school year, with options to look at a similar program for high school. Parent pointed out that

home and hospital instructional services had not been delivered, and Student's new case manager offered compensatory time equal to the service that had not been provided. Parent asked Ms. Cabezas if Student would do well in either program. Ms. Cabezas' answer is reported in the IEP team meeting report as acknowledging Student's high level of needs, suggesting that Student should be given a chance to see if the SEEC program would work, and noting that Student would have access to a quiet space when needed.

The April 17, 2025 IEP offered placement in homebound/hospital instruction for the remainder of the 2024-2025 school year, then a "regular classroom/public day school" starting on August 8, 2025, with 80 percent of the day outside the regular school environment. The IEP team offered 300 minutes of additional home and hospital instructional service to compensate for the inability to provide such service at The Ridge. The team again carried over unchanged the prior goals from the May 17, 2023 IEP, with the additional goal from March 5, 2024.

Student was released from The Ridge on April 28, 2025, without a residential treatment center placement and began an intensive outpatient program around May 6, 2025. Student did not do well in that program. Student would start sessions regulated but became dysregulated over time, threw fidget toys, screamed, used profanity, and yelled at peers. Student started to become more aggressive towards Parents and was not progressing. On May 20, 2025, Student was again put on an involuntary psychiatric hold at John Muir.

Parent contacted Clayton Valley sometime in May to inform it that Student would not be attending school there.

On May 14, 2025, Student's educational consultant emailed Student's new case manager to ask for an IEP team meeting "to discuss the offer for Student for ninth grade." The new case manager responded the next morning, stating Mount Diablo had made an offer, the family had toured the school sites, and the family now could accept or reject the offer. Parents' educational consultant responded later that day that Student was continuing to be a major safety concern and Parents were renewing their request for a residential treatment center placement. On May 27, 2025, the educational consultant emailed Student's new case carrier to give notice that Parents were unilaterally placing Student at a residential treatment center and would seek reimbursement from Mount Diablo. Mount Diablo responded on June 4, 2025, with a prior written notice denying the request for a residential placement.

Student was released from John Muir on June 4, 2025, and Parents then enrolled Student in the short-term Rogers Oconomowoc residential treatment center in Wisconsin. Student did not cooperate with the program and was "stepped up" to a higher level of care after 12 days. Student signed themselves out of the program and was discharged to home to await a placement offering a higher level of care. Student attended a partial hospitalization program while Parent's educational consultant tried to find a residential treatment center placement, and then entered Hillside Horizons in California, another short-term residential treatment center, in early July.

Parent's attorney entered the matter with a June 20, 2025 letter to Mount Diablo again requesting a residential treatment center placement. The attorney attached a letter from Doctor James Hartman, Student's psychiatrist. Dr. Hartman noted in the letter that all prior treatment had not succeeded in containing Student's dysregulation

and the current level of care may not adequately address Student's long-term needs. Doctor Hartman "strongly" recommended that Student attend a residential treatment facility.

Mount Diablo's automated attendance system reported on July 21, 2025, that Clayton Valley had requested Student's school records. Accordingly, Mount Diablo considered Student disenrolled from the district at that point. Student's attorney sent another letter to Mount Diablo on July 24, 2025, updating it on Student's attendance and again requesting a residential placement. Mount Diablo's system then reports on August 6, 2025, that Student applied to and was accepted by Clayton Valley, but never attended there. Parents were told on August 29, 2025, that Student had been disenrolled from Mount Diablo. Parents completed enrollment paperwork for Student on September 3, 2025. Upon enrollment, Student was placed according to the last agreed-upon IEP, and an IEP team meeting was set for October 2, 2025.

Parents' educational consultant was initially unsuccessful in finding a residential treatment center placement for Student. The consultant contacted several potential placements in Utah: Spark Homestead, Logan River, and New Focus Academy. Spark Homestead rejected Student on August 14, 2025, because Student had demonstrated less than two weeks of sustained positive behavior and shown significant aggression when dysregulated. Logan River rejected Student on August 20, 2025, because Student's current behaviors required more support than it could provide, but offered to review the decision if Student completed another four to six weeks at Hillside Horizons. New Focus Academy rejected Student on September 10, 2025, because of "unsafe and threatening behaviors" requiring a higher level of support than that center could provide. Upon

receipt of updated information about Student's progress, Spark Homestead reconsidered and accepted Student's application on September 4, 2025, and Student began attending Spark Homestead on September 8, 2025.

The IEP team met again on October 2, 2025. Student's therapist from Spark Homestead attended and explained Student had been in therapy at Spark Homestead and had not started on academics. Student tried to run away and committed some property destruction upon first arriving at Spark Homestead, so Student's therapist was working to calm Student's nervous system down so treatment could take place. Student's educational consultant noted that Spark Homestead was fully academically accredited, with a student-to-teacher ratio of almost 2 to 1.

Mount Diablo's program specialist proposed conducting a new educationally related mental health services assessment to gather data on Student's present levels. The team again offered Student placement in the SEEC program, now at Mount Diablo High School as Student had entered the ninth grade. Student would be out of the general education environment 100 percent of the time and would receive 30 minutes of individual counseling two times per week and 30 minutes of group counseling once per week. Parents did not accept the offer of placement and services and declined the new assessment. The team again carried over unchanged the prior goals from the 2023 IEP, with the additional goal from March 5, 2024.

Mount Diablo's offer of a new educationally related mental health services assessment was eventually accepted by Parent, and it was conducted by Dr. Ryan Yam, a licensed educational psychologist, and completed on January 28, 2026. Dr Yam found that educationally related mental health services were required for Student to access and benefit from education. Dr. Yam recommended placement at a residential treatment

center for Student, but he was not asked to evaluate any program or for any opinion on a residential treatment center placement. Dr. Yam reported that Student was not ready to be taken out of the current residential treatment center placement at Spark Homestead and that Student still has an educationally related need for in-the-moment support for mental health needs around the clock.

ISSUE 1a: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR IN IEPS DATED APRIL 2024, AS AMENDED ON SEPTEMBER 6, 2024, AND MARCH 17 AND APRIL 17, 2025, BY FAILING TO OFFER ADEQUATE GOALS TO ADDRESS STUDENT'S BEHAVIOR, SOCIAL, AND MENTAL HEALTH NEEDS?

Student contends that Mount Diablo failed to offer goals in all areas of need in the amendments to the original IEP created April 24, 2024, because all but one of the goals in the IEPs were prior goals carried over from the May 17, 2023 IEP. Student does not contend that claims connected to the April 24, 2024 IEP itself are not barred by the March 18, 2024 settlement agreement.

Mount Diablo contends that the alternative dispute resolution agreement reached by the parties on March 18, 2024, waived any claims connected to Student's educational program or placement through April 30, 2024, including any claims related to the April 24, 2024 IEP. Further, it argues that Student has presented no evidence that the goals that were carried over were no longer appropriate.

A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel

develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a) and 56363 subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

An IEP provides a statement of the special education, placement, related services, and program modifications and accommodations that will be provided for the child to advance in attaining the goals, make progress in the general education curriculum, and participate in education with disabled and nondisabled peers. (20 U.S.C. §§ 1401(14), 1414(d)(1)(A); Ed. Code, §§ 56032, 56345, subd. (a)(1)(A).)

A child's IEP must contain a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and meet each of the child's other educational needs that result from the child's disability. (20 U.S.C. § 1414(d)(1)(a)(ii); 34 C.F.R. § 300.320(a)(2)(i); Ed. Code, § 56345, subd. (a)(2).)

For each area of identified need, the IEP team must develop measurable goals that are based upon the child's present levels of academic achievement and functional performance, and which the child has a reasonable chance of attaining within a year.

(Ed. Code, § 56344.) Annual goals are statements that describe what a child with a disability can reasonably be expected to accomplish within a 12-month period in the child's special education program. (Letter to Butler, U.S. Dept. of Educ., Office of Special Education and Rehabilitative Services (OSERS March 1988) 213 IDELR 118; Notice of Interpretation, Appendix A to 34 C.F.R., part 300, Question 4 (1999 regulations).) The failure to offer goals is a procedural violation.

An IEP for a disabled child is measured at the time that it was created. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149; *Tracy N. v. Dept. of Educ., State of Hawaii* (D. Hawaii 2010) 715 F.Supp.2d 1093, 1112.) This evaluation standard is known as the "snapshot rule." (*J.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 439.) Under the snapshot rule, the decision concerning an IEP is not evaluated retrospectively or in hindsight. (*Ibid.*; *JG v. Douglas County School Dist.* (9th Cir. 2008) 552 F.3d 786, 801.) In reviewing the sufficiency of an IEP's offer of FAPE, the snapshot rule looks at what is reasonable given the information available to the team at the time.

Procedural violations of the IDEA only constitute a denial of FAPE if they: (1) impeded the student's right to a FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2); *W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484 (*Target Range*).

With the exception of the social emotional goal created by Ms. Cabezas on March 5, 2024, every goal in the IEPs developed on September 6, 2024, March 17, 2025, and April 17, 2025, were simply carried over verbatim from the May 17, 2023 IEP. The goals were not updated to reflect the fact that the persons responsible for implementing

and monitoring the goals would now be district staff instead of employees of non-public schools and non-public agencies. Further, the passage of time put Student in a very different posture in the period between April 2024 and April 2025 than in May 2023 when Student was attending Springstone, a school for the neurodivergent.

In the intervening time, Student returned to public school, was placed in a new setting with a different peer group, suffered significant stress, and underwent repeated involuntary commitments and hospitalizations following severe behaviors. Student's contention is that Mount Diablo's failure to offer updated goals based upon Student's present levels of ability and performance prevented the IEP team from addressing Student's needs and monitoring Student's progress.

Mount Diablo did not contest the fact the goals were carried over through the IEPs at issue. Instead, it argued the waiver in the March 18, 2024 agreement prevents any claim connected in any way to any IEP developed before April 30, 2024. That is not persuasive. By that argument, it could simply reissue the April 24, 2024 IEP each year until Student aged out of special education and be protected by the March 18, 2024 waiver of claims. The amendment IEPs developed by the team were new programs for Student's education, responding to new situations and issues. Entirely different placement offers were made at the IEPs held on March 17, 2025 and April 17, 2025, from that contained in the April 24, 2024 IEP. Student's contention is the subsequent IEPs goals were not updated to reflect changed circumstances. An agreement not to sue over a specific offer of FAPE cannot protect the content of different offers subsequently made.

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Mount Diablo also argues that there has been no showing that the goals that were carried over were not, somehow, still valid for Student. This argument ignores the fact that goals must be based upon a present statement of the student's levels of ability and performance. If the goals are not based on the student's present levels, they do not impart any information about the appropriate expectations for the student's improvement under the educational program.

The deficiency in the goals is not that they were unchanged from April 24 or April 30, 2024; it is that they were unchanged from May 2023. The goals were not revised in any way in consideration of Student's exit from Springstone regarding Student's "dark thoughts" and suicidal ideation, the involuntary psychiatric hospitalizations, the lost academic time, the obsessive fixations at Tilden, and the social frictions and dysregulations that occurred toward the end of the 2023-2024 school year. By failing to address these changes in Student and simply postponing consideration of new goals, Mount Diablo failed to offer adequate goals in the IEPs dated September 6, 2024, March 17, 2025, and April 17, 2025.

Having shown a procedural violation, Student must also demonstrate one of the three circumstances required under *Target Range*: (1) impedance of Student's right to a FAPE, (2) impedance of a parent's ability to participate in the decision-making process, or (3) a deprivation of educational benefit. Student asserts Mount Diablo's failure to update the goals materially impeded Parents' ability to participate in the IEP process, but the only proof put forward is the conclusory statement in briefing that "the goals did not guide meaningful updates to Student's IEP and impeded the team, including Parents, ability [sic] to monitor progress." No testimony is cited in support of this statement.

Goals are created to allow parents, and the team, to monitor the progress made by a particular intervention toward a particular goal. Student has not established an actual impairment caused by the lack of valid current goals. There was no demonstration of a lack of knowledge by Parents of Student's deficits or an inability to weigh the effectiveness of any intervention. Without such a showing, the failure to create appropriate goals cannot be said to constitute a denial of FAPE. (*R.A. v. West Contra Costa Unified School District* (9th Cir. 2017) --- Fed.Appx. ---, 2017 WL 2829525 ["[G]iven the lack of any clear evidence that [a procedural violation] infringed on [Student's] parents' opportunity to participate in the IEP process, this procedural violation did not deny [Student] a FAPE."].) Parents were aware of Student's deficits and needs, attended and participated in IEP team meetings, and presented the team with strong arguments against the proposals made by Mount Diablo.

Student did not prove Mount Diablo denied Student a FAPE by failing to offer adequate goals to address Student's behavior, social, and mental health needs in the IEPs dated April 2024, as amended on September 6, 2024, and March 17 and April 17, 2025.

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ISSUE 1b: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR IN IEPs DATED APRIL 2024, AS AMENDED ON SEPTEMBER 6, 2024, AND MARCH 17 AND APRIL 17, 2025, BY FAILING TO OFFER APPROPRIATE SERVICES TO ADDRESS STUDENT'S BEHAVIOR, SOCIAL, AND MENTAL HEALTH NEEDS?

Student argues that Mount Diablo failed to clearly delineate which persons would be responsible for addressing Student's IEP goals. Student contends this created a situation where skills identified in the goals were not systematically taught or reinforced during school, preventing the school from proactively addressing Student's emotional issues. Student concludes that that Mount Diablo never made a clear and legally sufficient offer of services.

Mount Diablo argues Student has not met the burden of proof to prevail. First, Student accepted a settlement that required waiver of any claim that the offer of FAPE made in the April 24, 2024 IEP was inadequate. Secondly, it argues that the program into which Parents have placed Student at Spark Homestead has the same features and services as the SEEC program offered by Mount Diablo at the January 19, 2024 IEP team meeting and continued to offer at subsequent meetings.

In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (See *Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) For a school district's offer of special education services to a disabled pupil to constitute a FAPE under the IDEA, a school district's offer of educational services and/or placement must be designed to meet the student's unique needs, comport with the student's IEP, and be reasonably

calculated to provide the pupil with some educational benefit in the least restrictive environment. (*Ibid.*) As noted in the previous section, the adequacy of an IEP is measured in terms of what was reasonable given the information available to the team at the time of the creation of the IEP.

Student's argument is not that there were any areas of need that were not addressed in any particular IEP offered by Mount Diablo and Student presented no evidence that there were services that needed to be offered. Instead, Student argues that the failure to assign specific people to deliver services to help Student make progress on specific goals caused Student to be denied FAPE because needed interventions to prevent escalating distress and behavior incidents were delayed or denied. Student does not contend that the IEPs at issue failed to offer these interventions, but rather the failure to assign specific people caused a failure to act proactively. That argument does not explain how any need connected to Student's socialization, behavior, or mental health known to exist by Mount Diablo was not addressed by any specific offer of FAPE. The failure to be proactive is not a failure to address needs.

Student has failed to demonstrate that the September 6, 2024, March 17, 2025 or April 17, 2025 IEPs failed to address any area of behavioral, social, or mental health need.

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ISSUE 1c: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR IN IEPs DATED APRIL 2024, AS AMENDED ON SEPTEMBER 6, 2024, AND MARCH 17 AND APRIL 17, 2025, BY FAILING TO OFFER PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT?

Student contends that the offer of FAPE made at the April 17, 2025 IEP team meeting denied Student a FAPE because it did not include placement at a residential treatment center. Student does not argue the September 6, 2024 or March 17, 2025 IEPs failed to offer placement in the least restrictive environment.

Mount Diablo argues that there was no reason to consider a residential treatment placement until after Student's treatment at The Ridge in February 2025, a position that Student has implicitly conceded by not arguing about placements in IEPs other than March and April 17, 2025. Beyond that point, Mount Diablo argues that Student's self-harming behavior was performative and manipulative and that Student's mental health issues centered on family dynamics and were not brought into the school environment.

A special education student must be educated with nondisabled peers "to the maximum extent appropriate," and may be removed from the general education environment only when the nature or severity of the student's disabilities is such that education in general education classes with the use of supplementary aids and services "cannot be achieved satisfactorily." (20 U.S.C. § 1412 (a)(5)(A); 34 C.F.R. § 300.114(a)(2)(ii).) In determining the educational placement of a child with a disability a school district must ensure that:

1. the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child,

the meaning of the evaluation data, and the placement options, and takes into account the requirement that children be educated in the least restrictive environment;

2. placement is determined annually, is based on the child's IEP and is as close as possible to the child's home;
3. unless the IEP specifies otherwise, the child attends the school that he or she would if non-disabled;
4. in selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
5. a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

(34 C.F.R. § 300.116 .)

To determine whether a special education student is being placed in the least restrictive environment, the United States Court of Appeals for the Ninth Circuit has balanced the following factors:

- the educational benefits of placement full-time in a regular class with appropriate aids and services compared to the educational benefits of a special education classroom;
- the non-academic benefits of interaction with children who are not disabled;

- the effect of the student's presence on the teacher and other children in the classroom; and
- the cost of mainstreaming the student in a regular classroom.

(*Sacramento City Unified Sch. Dist. v. Rachel H.* (9th Cir. 1994) 14 F.3d 1398, 1404 (*Rachel H.*) [adopting factors identified in *Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1048-1050]; see also *Clyde K. v. Puyallup School Dist. No. 3* (9th Cir. 1994) 35 F.3d 1396, 1401-1402 [applying *Rachel H.* factors to determine that self-contained placement outside of a general education environment was the least restrictive environment for an aggressive and disruptive student with attention deficit hyperactivity disorder and Tourette's Syndrome].)

If it is found that a child cannot be educated in a general education environment, then the least restrictive analysis requires determining whether the child has been mainstreamed to the maximum extent that is appropriate in light of the continuum of program options. (*Daniel R.R.*, *supra*, 874 F.2d at 1050.) The continuum of program options includes, but is not limited to:

- regular education;
- resource specialist programs;
- designated instruction and services;
- special classes;
- nonpublic, nonsectarian schools;
- state special schools;

- specially designed instruction in settings other than classrooms;
- itinerant instruction in settings other than classrooms; and
- instruction using telecommunication instruction in the home or instructions in hospitals or institutions.

The continuum of program options ranges from the least restrictive to the most restrictive, from general education settings to institutional settings. (Ed. Code, § 56361.) Different educational classifications or placements within a particular level in the continuum are not subject to least restrictive environment analysis.

At the outset, it must be noted that the parties have seemingly switched positions from the typical least restrictive environment case. Here, the school is arguing for a less restrictive placement, while Student seeks to be taken as far as possible from the general education environment. Mount Diablo has not argued that Student should not be allowed to make this argument; indeed, the latter part of the definition of least restrictive environment states that it must be a setting where education in a less restrictive environment "cannot be achieved satisfactorily."

Student had been placed previously in a general education classroom in elementary school and in seventh and eighth grade with supports and was unable to stay stable or gain any benefit. The comparison here is not between general education and a special education classroom, but between two settings completely out of the mainstream environment. Mount Diablo advocated placing Student in a SEEC program at the high school that would take Student out of the general education environment for 100 percent of the day, while Student argues for one of the most restrictive placements possible, putting Student in a residential treatment center with line-of-sight observation 24 hours a day, seven days per week.

Because full-time placement in the general education setting with supports is not an option here, none of the *Rachel H.* factors apply. The determining question is whether Student can be satisfactorily educated in the less restrictive environment of the SEEC program or requires the maximally-restrictive environment of a residential treatment center.

## MOUNT DIABLO'S CREDIBILITY ISSUES

Mount Diablo's teachers testified regarding the 2024-2025 school year that Student had no behavior or mental health issues and made appropriate progress in their classes, and Mount Diablo points to Student's passing grades. Those full-year passing grades were earned despite Student having ceased attending school at all following the February 14, 2025 suspension. The teachers all admitted that Student wore headphones to listen to music in class, even during instructional time, and frequently did not turn in required work. The teachers' testimonies meant to demonstrate Student's mental health and academic achievement were not credible.

Student's English and history teacher testified that Student made adequate progress, was not in distress, and was not disruptive. This witness would take lengthy pauses before answering any sensitive questions. She did not recall Student's absence in December 2024, could not recall any specifics of Student's positive participation in class, and did not remember any discussions at the IEP team meetings she attended. She stated that she was not familiar with Ms. Cabezas, despite being one of Student's five teachers given support by Ms. Cabezas, another member of Student's IEP team. Her demeanor indicated a lack of candor and excessive care taken not to say something contrary to Mount Diablo's interests. The English and history teacher did acknowledge that Student had increasing difficulty regulating in the month before Student left

school and that Student listened to music through headphones to reduce stress. Her demeanor indicated the testimony given was being carefully filtered and her testimony was unconvincingly incomplete and internally inconsistent.

Likewise, Student's mathematics teacher was not a forthright witness. She claimed not to observe any changes in Student's stress levels as the year went on. Despite the fact that mathematics was a subject particularly difficult for Student, a source of stress, and an area of work completion concern, she stated that Student's grades were good. She did not find that Student had any troubles with work completion or see Student have any conflicts with peers. The witness did not give any testimony of Student's positive participation but simply maintained that Student was unexceptional and posed no issues in class. She claimed not to know who Ms. Cabezas was and to have been surprised to learn at an IEP team meeting that Student had mental health issues, but allowed Student to wear headphones to listen to music while in class because of needs related to anxiety. Other students were not allowed to wear headphones in class. The witness' testimony was at odds with the substantial weight of other evidence and was not credible.

A more credible witness was Student's science teacher, who also disavowed any knowledge of Student having peer issues, but found Student to be self-isolating. He believed that Student had emotional issues, but felt Student just preferred to be alone. He knew Student used headphones to self-regulate. He was the only teacher to testify to noticing Student's change of gender identity following the Winter Break. This teacher's awareness of Student's emotional issues adds reason to doubt the other teachers' disavowal of knowledge of any issues.

Student's teachers behaved at hearing like they had been pressured to provide as little support to Student's case as possible. Those witnesses lost credibility when they testified that they had not seen the obvious changes that others saw, had not been advised by Ms. Cabezas about Student's struggles, and had not retained any knowledge of Student's challenges from the IEP team meeting they attended. They testified that Student left their classrooms multiple times per week to seek counseling, but did not view Student as troubled.

That testimony is contradicted by the consistent testimony of Ms. Cabezas, who was a forthright and credible witness. She did not support much of Student's arguments, but she testified clearly and consistently about seeing Student suffer a severe and incapacitating decline in social and emotional functioning over the course of the 2024-2025 school year. The blanket denials by testifying teachers that Student did not display in school any concerning or disruptive behaviors in the 2024-2025 school year are not credible.

## STUDENT REQUIRED A RESIDENTIAL TREATMENT CENTER PLACEMENT

Following the October 2, 2025 IEP meeting, parties agreed to have Student undergo a comprehensive psychoeducational and educationally-related mental health services assessment. Dr. Ryan Yam, who has a doctorate in psychology, conducted the assessment, issued a report, and testified regarding his findings. The assessment was completed on January 28, 2026. While the assessment was conducted after the April 17, 2025 IEP offer was made and his observation of Student took place in January 2026, Dr. Yam's assessment was primarily based upon review of Student's records available to the team in April 2025.

In weighing the insight of Dr. Yam's assessment, the result must not be to "judge an [IEP] in hindsight; rather, [courts] look to the [IEP's] goals and goal achieving methods at the time the plan was implemented and ask whether these methods were reasonably calculated to confer [Student] with a meaningful benefit." (*Adams v. State of Oregon*, supra, 195 F.3d at 1149.) In light of the facts at hand, since this assessment was conducted using the same medical and academic records available to the Mount Diablo, Dr. Yam's report provides an overview of Student's placement needs based upon the information available to or known by the April 17, 2025 IEP team and is relevant to consideration of the appropriateness of the team's offer of placement.

Dr. Yam found that "despite substantial interruptions in schooling due to hospitalizations and residential placement, data confirms that [Student's] academic difficulties are not primarily caused by limited school experience." Dr. Yam confirmed that Student has "persistent weaknesses in reading fluency, spelling, written expression, mathematics calculation, and problem solving that are below age and grade level expectations." Dr. Yam's report added that Student met the criteria for eligibility for special education due to emotional disability, exhibiting:

- an inability to learn;
- the expression of inappropriate behaviors or feelings;
- the tendency to develop physical symptoms or fears associated with social and academic settings;
- a general pervasive mood of unhappiness or depression;
- for a long period of time to a marked degree significantly adversely affecting academic performance.

Dr. Yam found that Student's emotional issues created an inability to learn, demonstrating an effect that went beyond issues in the home. Similarly, the emotional disability finding by an independent assessor is particularly significant, as it required marked evidence of difficulties over time, showing that Student's issues did not develop recently. Dr. Yam was not charged with making a specific recommendation whether Student required a residential treatment center placement, but his report found that Student was not ready to be removed from the current residential treatment center placement.

At the time of the April 17, 2025 IEP, Student was not able to access education in a less restrictive environment and needed a placement in a more restrictive environment than the SEEC program. Student had become increasingly defiant and oppositional, had tuned out instruction in favor of listening to music, and was disrupting classes due to a determination to make others show Student respect. The IEP team knew Student suffered two involuntary psychiatric holds that school year, was defiant, disruptive, and physically violent, and had repeatedly threatened to commit suicide.

At the time of the April 17, 2025 IEP team meeting, Mount Diablo's program specialist for mental health services and the rest of the IEP team had all the information necessary to understand that Student struggled with dysregulation on such an extreme level that placement of Student in a comprehensive high school in a special day class would not bring benefit academically or socially. The only academic assessments that Mount Diablo had at the time of the meeting were from May 2023 which placed Student at a third-grade reading level.

The evidence did not support Mount Diablo's continued insistence that placing Student in a comprehensive high school's social and emotional classroom in the SEEC

program would have met Student's individualized unique needs in both social and emotional functioning and for extensive academic support. To the contrary, Student needed both extensive academic support to come up to grade-level standards, but, more glaringly, needed social emotional support to work with evolving emotional needs that prevented Student from participating in class, creating social bonds with peers, and organizing and completing required assignments.

Student isolated, self-harmed, did not connect with same-age peers, and made pronouncements about gender identity and inappropriate comments in class. Student was twice disciplined for punching other students and did not engage in appropriate peer interactions. Student would leave the classroom multiple times a week, according to teacher testimony, to go to the counseling center or talk with a mental health professional. Dr. Yam's assessment showed that Student was significantly behind same-age peers both academically and emotionally.

Dr. Hartman, Student's treating psychiatrist, testified that it was basic protocol that, when a patient continues to decompensate, treatment requires the elevation of the care level. Student's attempts to act on suicidal ideation may have been performative to some degree, but Student's inability to make friends, obsessiveness with some individuals, and tendency toward catastrophizing and mood swings were very real. Maintaining Student at the same level of support offered in January 2024 had no reasonable possibility of being effective.

Mount Diablo's briefing displays a tendency to argue that Student's mental issues arise from and were confined to family conflicts, but the facts do not support the conclusion. From an early age, Student has been described as close to family, and even in recent questioning as part of intake exams at the clinics and centers expressed

love and closeness with Parents and sibling. Parents bore the brunt of Student's dysregulation because they were, as phrased by Ms. Cabezas, "safe persons" who Student believed could not be pushed away by bad behavior. Student's issues do not solely arise in the family sphere and are not solely expressed in the home.

Residential placement is required when a student's emotional or mental-health needs are so intertwined with educational functioning that the student cannot access education without a structured therapeutic setting. (*Clovis Unified School District v. California Office of Administrative Hearings* (9th Cir. 1990) 903 F.2d 635, 643; *L.B. v. San Diego Unified School District* (9th Cir 2026) 168 F.4th 1150.) That is the case here. According to the mental health professionals who have appeared in this case, Student will not recover and become able to benefit from special education to access academic instruction without treatment in a residential center. Student's inability to benefit from intensive outpatient and partial hospitalization programs makes clear that Student's issues require more than the offer of the SEEC program's available therapy services as part of a six-hour school day.

Mount Diablo denied Student FAPE by failing to offer Student placement in a residential treatment center as part of the April 17, 2025 offer of FAPE.

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ISSUE 2a: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR BY FAILING TO MATERIALLY IMPLEMENT ITS OFFER OF HOME HOSPITAL INSTRUCTION OFFERED IN THE MARCH 17, 2025 IEP?

Student argues that Mount Diablo failed to provide the home and hospital instructional services agreed to in the March 17, 2025 IEP. Student contends this failure to implement services constituted a material failure to implement the IEP and denied Student a FAPE.

Mount Diablo concedes that the services were not provided, but counters that it was prevented from providing the service due to circumstances beyond its control and that it offered to remedy the failure to provide the required instruction.

A material failure occurs when the services provided to a disabled child fall significantly short of those required by the IEP. (*Van Duyn v. Baker Sch. Dist.* (9th Cir. 2007) 502 F.3d 811, 815.) A brief gap or minor delay in the delivery of services may not be a material failure. (*Sarah Z. v. Menlo Park City School Dist.* (N.D.Cal. 2007) 2007 WL 1574569.)

Student's argument is that the failure to provide the service was material because Student did not receive grades at the end of the school year. This was not the case; Student has argued elsewhere that Student should not have received full-year grades because Student stopped attending school after February 14, 2025. Student's report card for the 2024-2025 school year reflects that Student received full credit for nine classes taken that school year.

Further, Student does not discuss or dispute the fact that Mount Diablo was prevented from providing the home and hospital instruction because The Ridge informed it that Student was too dysregulated to receive academic support. Student also does not discuss or dispute Mount Diablo's offer to provide 300 minutes as compensatory time.

Under those facts, it cannot be said that the failure to provide the required home and hospital instruction services was a material failure to implement the IEP.

ISSUE 2b: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR BY FAILING TO CONVENE AN IEP TEAM MEETING IN RESPONSE TO PARENTS' REQUESTS IN JUNE AND JULY 2025, FOR MOUNT DIABLO TO UPDATE STUDENT'S IEP?

Student contends that Parents requested an IEP team meeting in an emailed letter from their legal counsel sent on June 20, 2025, and Mount Diablo had to hold an IEP team meeting within 30 school days of that request.

Mount Diablo argues that the letter did not request an IEP team meeting so there was no requirement to hold a meeting in response to the letter.

An IEP team must convene an IEP meeting upon request by parents. (20 U.S.C. § 1414(d)(4)(A); 34 C.F.R. Section 300.324(b)(1); Ed Code, §§ 56343 and 56345.1.) A school district must hold an IEP team meeting within 30 days of a parent's written request, excluding days between regular school sessions. (Ed Code, § 56344.)

The June 20, 2025 letter from Parent’s legal counsel was written to try to “work with the District on placement and seek an amendment to [Student’s] IEP for placement at a non-public school” residential treatment center. The letter requests that Mount Diablo provide counsel with Student’s education records and mental health/counseling records. It describes Student’s mental health challenges, attaches a letter from Dr. Hartman, and ends with a notification that Parents will place Student unilaterally and seek reimbursement if no agreement can be worked out. It does not mention an IEP anywhere other than in the quoted language and does not request or propose a meeting.

Student’s closing brief references a request for an IEP team meeting made by Parents on May 14, 2025, but such a request is not part of the issue to be decided, which explicitly cites requests made in June and July of 2025. No request made in July 2025 is cited in Student’s briefing.

Neither Parents nor their legal counsel requested an IEP team meeting in June or July 2025. The letter from counsel was an attempt to amend Student’s IEP. The word “meeting” does not appear.

Mount Diablo did not deny Student a FAPE by failing to convene one.

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ISSUE 2c: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR BY FAILING TO TIMELY RESPOND TO PARENT'S JULY 24, 2025 REQUEST FOR A COMPREHENSIVE EVALUATION OF STUDENT?

Student argues that Mount Diablo had until August 21, 2025, the 15th school day following Parents' request, to prepare an assessment plan in response to Parent's request on July 24, 2025. Since it did not do so until October 17, 2025, Student argues that there was a denial of Student's right to a FAPE.

Mount Diablo asserts that the request was "contingent," and that Student ceased being Mount Diablo's responsibility on July 21, 2025, when Clayton Valley requested Student's educational records. Finally, Mount Diablo argues that any failure to act by it did not result in a denial of FAPE.

A school district must conduct an assessment upon request by parent. (20 U.S.C. § 1414(a)(2)(A).) It must issue an assessment plan within 15 days of the referral for assessment, not counting the days during the summer break. (CA Ed Code Section 56321.)

The July 24, 2025 request for assessment was in a letter from Parent's legal counsel. Speaking for Parents, she noted that Student had not been fully evaluated since May 2023. It continued: "Given [Student's] need for a more restrictive placement, we request the District assess [Student]." This request was effective as a request for

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assessment, although it did not specify the areas to be assessed. At a minimum, it requested reassessment in all areas of Student's suspected disability known to Mount Diablo.

The request was not, as argued by Mount Diablo, contingent upon Student being placed in an RTC by Parents. Counsel's letter noted that Student's last assessments were two years ago, expressed Parents' belief that Student required a more restrictive placement, and requested assessment. There were no conditions or contingencies.

Mount Diablo also argues in its brief that it was not the responsible agency to conduct the assessments because it was no longer responsible for Student's education as of July 30, 2025, because Student enrolled at Clayton Valley. Much time was spent at hearing trying to develop a history about Student's enrollment status. Two facts were established. First, Student did not seek disenrollment or notify Mount Diablo that Student wished to be disenrolled. Second, upon receiving a request for a student's records from a different local educational agency, Mount Diablo disenrolls that student as a matter of policy.

Mount Diablo presented evidence from its internal records that Clayton Valley requested Student's records on July 21, 2025, and it completed a process of disenrolling Student by sending Student's records to Clayton Valley on July 30, 2025. Mount Diablo cites no law in support of its position that it may consider a student disenrolled because of a request for educational records. Student did not lose the right to have Mount Diablo respond to a request for assessment because Parents applied to a lottery for a place in a charter school. Parent's assertion that they notified Clayton Valley in May 2025 that Student would not be attending school there was unrebutted, and Clayton

Valley sent an email to Parents on September 10, 2025, stating that it never received Student's educational records from Mount Diablo. Mount Diablo was required to respond to Parents' request for assessment by August 21, 2025. It did not do so.

The failure to timely respond to a request for assessment is a procedural violation. Having proven the violation, Student must also demonstrate one of the three circumstances required under *Target Range*. Student asserts Mount Diablo impeded Parents' ability to participate in the educational decision-making process, but does so in a conclusory manner, by asserting that Parents and the IEP team at the October 2, 2025 team meeting lacked updated assessment data to develop appropriate goals.

Student provides no evidence or argument that the failure to respond by August 21, 2025, impeded parental participation at the October 2, 2025 team meeting. As Mount Diablo pointed out, any assessment conducted in response to an assessment plan generated on August 21, 2025, even if agreed to by Parents the same day, was not required to be completed until October 20, 2025, which is after the date of filing the amended complaint. (Ed Code, § 56043(c).) Mount Diablo did not deny Student FAPE by failing to timely respond to the July 24, 2025 request for assessment.

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ISSUE 2d: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR BY INAPPROPRIATELY CHANGING STUDENT'S PLACEMENT BY DISENROLLING STUDENT FROM MOUNT DIABLO IN JULY 2025?

Mount Diablo did not attempt to disenroll Student until after the 2024-2025 school year. Although it is questionable whether relief could be granted on such a basis, the claim will be discussed as though it asserted a denial of FAPE for the 2025-2026 school year.

Student argues that Mount Diablo's disenrollment of Student constituted a de facto change of placement which denied Student a FAPE. As noted in the discussion of Issue 2c, Mount Diablo's putative disenrollment of Student was an internal action which had no effect on Student's right to obtain a FAPE from Mount Diablo. No change of placement occurred. This argument appears to have been presented in case there was a decision that Mount Diablo was relieved of its responsibility to provide FAPE because it considered Student to be enrolled at Clayton Valley. Although Parents' testimony at hearing showed that Mount Diablo's actions in this regard caused them much stress and anxiety, it did not affect Student's right to a FAPE.

Mount Diablo did not deny Student a FAPE by disenrolling Student.

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ISSUE 2e: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2024-2025 SCHOOL YEAR BY FAILING TO TIMELY PROVIDE A PRIOR WRITTEN NOTICE FOLLOWING ITS DISENROLLMENT OF STUDENT IN JULY 2025?

As discussed in Issue 2d, although Mount Diablo did not attempt to disenroll Student until after the 2024-2025 school year, the claim will be discussed as though it asserted a denial of FAPE for the 2025-2026 school year.

Mount Diablo's decision to treat Student as disenrolled between July 30, 2025, and September 3, 2025, was entirely an internal, administrative decision, which had no effect upon Student's education or right to a FAPE.

Accordingly, Mount Diablo was not required to send Student a prior written notice and Student was not denied a FAPE.

ISSUE 3a: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2025-2026 SCHOOL YEAR IN THE IEP DATED OCTOBER 2, 2025, BY FAILING TO OFFER ADEQUATE GOALS TO ADDRESS STUDENT'S BEHAVIOR, SOCIAL, AND MENTAL HEALTH NEEDS?

Student takes the same approach to the issue of adequate goals as set out in Issue 1a. Student cites the fact that the same goals appeared, word for word, in all IEPs after May 2023, with the addition and similar carryover of a single goal created on March 5, 2024. Student established that the goals were no longer appropriate, but failed to show that this technical violation constituted a denial of FAPE under any of the *Target Range* factors.

As discussed in section 1a, the failure to support an assertion that the lack of current, valid goals significantly impeded the Parents' opportunity to participate in the decision-making process with any fact or argument is fatal to the claim.

Mount Diablo did not deny Student a FAPE by failing to offer adequate goals in the October 2, 2025 IEP.

ISSUE 3b: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2025-2026 SCHOOL YEAR IN THE OCTOBER 2, 2025 IEP BY FAILING TO OFFER APPROPRIATE SERVICES TO ADDRESS STUDENT'S BEHAVIOR, SOCIAL, AND MENTAL HEALTH NEEDS?

Student does not present argument in support of Issue 3b and no supporting evidence of any unmet needs in behavior, social functioning, or mental health was presented at hearing.

The failure to address this issue at all in final briefing indicates that the issue has apparently been abandoned. Lacking any showing in regard to the issue, Student has failed to meet the burden of proof. Mount Diablo did not deny Student a FAPE in the October 2, 2025 IEP by failing to address Student's behavior, social, or mental health needs.

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ISSUE 3c: DID MOUNT DIABLO DENY STUDENT FAPE DURING THE 2025-2026 SCHOOL YEAR IN THE OCTOBER 2, 2025 IEP BY FAILING TO OFFER PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT?

Student's Issue 3c is, in substance, the same as Issue 1c. The placement that should have been offered at the October 2, 2025 IEP team meeting is the same one Student argues should have been offered at the April 17, 2025 IEP team meeting. This conclusion is buttressed by the fact that Student does not present separate argument in support of Issue 3c in final briefing.

The section of Student's brief discussing the April 17, 2025 IEP team meeting cites additional points of information that further compel the conclusion that the team should have offered a residential placement at the October 2, 2025 IEP team meeting. It notes that the October 2025 team had information about Student's continued and increasing dysregulation during the intensive outpatient program and subsequent involuntary psychiatric hold on May 20, 2025, Student's refusal to complete the Rogers Oconomowoc program, and Student's entry into the short-term Hillside Horizon residential treatment. The October IEP team also had the letter from Dr. Hartman, Student's psychiatrist, recommending long-term residential treatment. The team also heard directly from Student's therapist at Spark Homestead about Student's needs and fragility. Despite this, Mount Diablo made the same placement offer as at the April 17, 2025 IEP team meeting.

On the same analysis as expressed on Issue 1c and a stronger factual background, Student prevails on Issue 3c. Mount Diablo denied Student a FAPE by failing to offer placement in the least restrictive environment in which Student can benefit from education.

## CONCLUSIONS AND PREVAILING PARTY

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

### ISSUE 1, SUBSECTION a:

Mount Diablo did not deny Student a FAPE in the 2024-2025 school year in the IEPs dated April 2024, as amended on September 6, 2024, and March 17 and April 17, 2025, by failing to offer adequate goals to address Student's behavior, social, and mental health needs.

Mount Diablo prevailed on Issue 1, subsection a.

### ISSUE 1, SUBSECTION b:

Mount Diablo did not deny Student a FAPE in the 2024-2025 school year in the IEPs dated April 2024, as amended on September 6, 2024, and March 17 and April 17, 2025, by failing to offer appropriate services to address Student's behavioral, social, and mental health needs.

Mount Diablo prevailed on Issue 1, subsection b.

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### ISSUE 1, SUBSECTION c:

Mount Diablo denied Student a FAPE in the 2024-2025 school year in the IEPs dated April 2024, as amended on September 6, 2024, and March 17 and April 17, 2025, by failing to offer Student placement in the least restrictive environment.

Student prevailed on Issue 1, subsection c.

### ISSUE 2, SUBSECTION a:

Mount Diablo did not deny Student a FAPE during the 2024-2025 school year by failing to materially implement its offer of home hospital instruction offered in the March 17, 2025 IEP.

Mount Diablo prevailed on Issue 2, subsection a.

### ISSUE 2, SUBSECTION b:

Mount Diablo did not deny Student FAPE in the 2024-2025 school year by failing to convene an IEP team meeting in response to Parents' requests in June and July 2025 for Mount Diablo to update Student's IEP.

Mount Diablo prevailed on Issue 2, subsection b.

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#### ISSUE 2, SUBSECTION c:

Mount Diablo did not deny Student a FAPE in the 2024-2025 school year by failing to timely respond to Parents' July 24, 2025 request for a comprehensive evaluation of Student.

Mount Diablo prevailed on Issue 2, subsection c.

#### ISSUE 2, SUBSECTION d:

Mount Diablo did not deny Student FAPE in the 2024-2025 school year by inappropriately changing Student's placement by disenrolling Student from Mount Diablo in July 2025.

Mount Diablo prevailed on Issue 2, subsection d.

#### ISSUE 2, SUBSECTION e:

Mount Diablo did not deny Student a FAPE in the 2024-2025 school year by failing to provide a timely written notice prior to disenrolling Student in July 2025.

Mount Diablo prevailed on Issue 2, subsection e.

#### ISSUE 3, SUBSECTION a:

Mount Diablo did not deny Student a FAPE in the 2025-2026 school year by failing to offer adequate goals to address Student's behavior, social, and mental health needs.

Mount Diablo prevailed on Issue 3, subsection a.

### ISSUE 3, SUBSECTION b:

Mount Diablo did not deny Student FAPE during the 2025-2026 school year in the October 2, 2025 IEP by failing to offer appropriate services to address Student's behavior, social, and mental health needs.

Mount Diablo prevailed on Issue 3, subsection b.

### ISSUE 3, SUBSECTION c:

Mount Diablo denied Student a FAPE in the 2025-2026 school year by failing to offer Student placement in the least restrictive environment.

Student prevailed on Issue 3, subsection c.

## REMEDIES

Student prevailed on Issues 1c and 3c because Mount Diablo's failure to offer Student placement in a residential treatment center during the 2024-2025 and 2025-2026 school years denied Student a FAPE. Student is entitled to a remedy.

Student requests reimbursement to Parents of the cost of the unilateral placement at Spark Homestead, including fees and tuition, and transportation costs for family visits. Student also seeks an order directing prospective placement at Spark Homestead through the date of Decision.

A parent may be entitled to reimbursement for placing a student in a private school without the agreement of the local school district if the parents prove at a due process hearing that: 1) the district had not made a FAPE available to the student prior to the placement; and 2) that the private school placement is appropriate. (20 U.S.C.

§ 1412(a)(10)(C)(ii); 34 C.F.R. § 300.148(c); *see also School Committee of Burlington v. Department of Ed.* (1985) 471 U.S. 359, 369 [reimbursement for unilateral placement may be awarded under the IDEA where the district's proposed placement does not provide a FAPE] (Burlington); *see also Forest Grove School Dist. V. T.A.* (9th Cir. 2011) 638 F.3d 1234, 1238-1239 [the IDEA expressly provides that parents of parentally-placed private school students may be entitled to reimbursement for costs of placement or services procured for their child when FAPE is at issue.]

Reimbursement may be denied or reduced if at least 10 days prior to the private school enrollment the parents fail to give written notice to the district about their concerns, their intention to reject the district's placement and their intention to enroll the student in a private school at public expense. (20 U.S.C. § 1412(a)(10)(C)(iii)(I)(bb); 34 C.F.R. § 300.148(d)(1).)

Analysis of Student's reimbursement requests requires determining whether Parent's unilateral placement was appropriate and whether equitable factors require reduction of the requested reimbursement. (34 C.F.R. § 300.148(c); *Florence County School Dist. Four v. Carter* (1993) 510 U.S. 7, 14 (despite lacking state-credentialed instructors and not holding IEP team meetings, unilateral placement was found to be reimbursable where the unilateral placement had substantially complied with the IDEA by conducting quarterly evaluations of the student, having a plan that permitted the student to progress from grade to grade and where expert testimony showed that the student had made adequate progress).) However, the private school placement need not meet the state standards that apply to public agencies in order to be appropriate for unilateral placement by a parent.

The placement at Spark Homestead includes an accredited school which will allow Student to progress toward meeting graduation requirements. Student's unilateral placement was necessary for Student's education because Mount Diablo failed to offer a FAPE.

"In determining whether placement at a residential school is 'proper,' we focus on whether the placement is 'necessary for educational purposes,' or whether 'the placement is a response to medical, social, or emotional problems ... quite apart from the learning process.' " *L.B. supra*, 168 F.4th at 1162 (quoting *Ashland Sch. Dist. v. Parents of Student R.J.*, 588 F.3d 1004, 1010 (9th Cir. 2009) (quoting *Clovis Unified Sch. Dist. v. Cal. Office of Admin. Hearings*, 903 F.2d 635, 643 (9th Cir. 1990))).

Further, Parents provided notice to Mount Diablo of their intent to unilaterally place Student and seek reimbursement on May 27, 2025.

The equitable power to create a remedy to ensure complete relief should not include prescribing a prospective placement for a student where, as here, the extraordinary relief of a highly restrictive placement is required due to a student's severe needs, which are of uncertain duration. Decisions about prospective placement are best left to an IEP team, which can act in collaboration with full knowledge of Student's current status. Dr. Yam's independent evaluation stated that Student should not be removed from the current placement at Spark Homestead due to emotional disability affecting Student's ability to learn. Student should not be removed from the current placement before an IEP team has met to consider Student's current status and needs and can make an appropriate offer of FAPE.

Student was denied a FAPE by Mount Diablo's failure to place Student in the least restrictive environment in which Student could be educated. Accordingly, Student's placement at Spark Homestead is both necessary and appropriate. Student requires a residential treatment center placement to address Student's issues and reintegrate Student into the educational environment. Parents should be reimbursed the costs of the placement, including application fees and any non-refunded deposits. To the extent that visits by Student's family are seen by the center's administration or staff as necessary parts of the treatment Student receives at Spark Homestead, the reasonable expenses of such visits should be borne by Mount Diablo and reimbursed to Parents. Parents shall be reimbursed for the costs of attendance at Spark Homestead until such time that an offer of FAPE has been made by a new IEP team.

## ORDER

1. Within 45 days of the date of this Order, upon proof of payment by Parents, Mount Diablo shall reimburse Parent \$52,318 for tuition and fees at Spark Homestead, representing payment for tuition for October and November 2025, plus an enrollment fee or deposit. If any part of the enrollment fee or deposit is refunded to Parents, that sum must be turned over to Mount Diablo. Upon proof of payment by Parents, Mount Diablo shall reimburse Parents for tuition amounts billed for attendance at Spark Homestead for December, in the amount of \$17,887, and for January, in the amount of \$17,887. District shall reimburse Parent for all additional monthly tuition expenses incurred within 30 days of payment by Parent until an IEP team meeting has

been held and a new offer of FAPE has been made by Mount Diablo, until Student has been discharged by Spark Homestead, or until Student has received a high school diploma or its equivalent.

2. Mount Diablo shall reimburse Parents for the expense of all trips by all family members to visit Student at Spark Homestead which are certified to be therapeutically necessary for Student's treatment by a staff member or administrator at Spark Homestead. Mount Diablo shall also reimburse Parents for all travel taken at the direction of Spark Homestead by Student to visit home. Reimbursement shall be limited to the amount specified for per diem, travel costs, and lodging expenses provided to travelers on official U.S. government business. Specific rates for specific destinations are available at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

## 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.

CHRIS BUTCHKO

Administrative Law Judge

Office of Administrative Hearings