

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

THE CONSOLIDATED MATTERS INVOLVING:
PARENTS ON BEHALF OF STUDENT, AND
ETIWANDA SCHOOL DISTRICT

CASE NO. 2025090752

CASE NO. 2026020539

DECISION

May 15, 2026

On September 22, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Parents on behalf of Student, naming Etiwanda School District, called Etiwanda. On October 28, 2025, OAH granted the parties' request for a continuance. On February 11, 2026, Etiwanda filed a request for a due process hearing with OAH, naming Student. Etiwanda also moved to consolidate and continue the matters, which OAH granted on February 13, 2026. OAH designated Student's case as primary, and set the due process hearing to commence on March 3, 2026.

Administrative Law Judge Cararea Lucier heard this matter via videoconference on March 3, 4, 5, 18, 19, 20, 24, and 25, 2026.

Attorneys Marymichelle Lotanao and Matthew Storey represented Student. Parent attended all hearing days on Student's behalf. Attorney Sundee Johnson represented Etiwanda. Elizabeth Freer, Executive Director of Special Education for Etiwanda, attended all hearing days on Etiwanda's behalf.

At the parties' request, the matter was continued to 5:00 PM on April 20, 2026, for written closing briefs. Student timely submitted his closing brief. Etiwanda submitted its closing brief at 5:18 PM on April 20, 2026. Although Etiwanda's closing brief was submitted 18 minutes past the deadline, it will not be disregarded because of this minor error. The record was closed, and the matter was submitted on April 20, 2026.

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

The issues for hearing were clarified by the Administrative Law Judge and confirmed by the parties on the first and second days of hearing, March 3 and 4, 2026. The parties clarified that the first IEP team meeting Etiwanda convened for Student was on January 17, 2024, and continued on March 6, 2024, and is the subject of Student's Issue 1. The January 17, 2024 IEP, continued on March 6, 2024, is called the January 17, 2024 IEP in this Decision.

Etiwanda convened Student's annual IEP team meeting on April 19, 2024, and amended the IEP document on May 6, August 29, September 13, and November 20, 2024, and February 11, 2025. This annual IEP is the subject of Student's Issue 2, and is called the April 19, 2024 IEP in this Decision.

Etiwanda convened another annual IEP team meeting for Student on April 1, 2025, which was amended on May 13, August 25, and December 10, 2025. This annual IEP is the subject of Student's Issue 3, and Etiwanda's Issue, and is called the April 1, 2025 IEP in this Decision.

STUDENT'S ISSUES

1. Did Etiwanda deny Student a FAPE in the January 17, 2024 IEP by failing to:
 - a. develop measurable goals for letter and sound identification, math foundational facts and fluency, and independent sentence writing;
 - b. offer appropriate support and services in reading, writing, and math; and
 - c. offer placement in the least restrictive environment?

2. Did Etiwanda deny Student a FAPE in the April 19, 2024 IEP by failing to:
 - a. develop measurable goals for
 - work refusal,
 - turning in assignments on time,
 - completing assignments,
 - rote counting beyond 37,
 - independent grade level math graph reading,
 - independent use of a multiplication chart,

- multiplication and division,
- learning the balance of shapes,
- learning the balance of the alphabet,
- learning the balance of the letter sounds,
- sight words or high frequency words reading for kindergarten through fourth grade,
- writing last name,
- using assistive technology independently, and
- learning to write letters and numbers;

b. offer appropriate services and support in reading, writing, and math; and

c. offer extended school year for summer 2024?

3. Did Etiwanda deny Student a FAPE in the April 1, 2025 IEP by failing to:

a. develop measurable goals for

- executive functioning,
- peer academic engagement,
- work production and task completion,
- handwriting,
- typing,
- math facts,

- math fluency, and
 - increasing academic independence;
- b. offer appropriate services and support in reading, writing, and math;
 - c. offer Student placement in the least restrictive environment; and
 - d. offer extended school year for summer 2025?

ETIWANDA'S ISSUE

4. Did Etiwanda's April 1, 2025 IEP offer Student a FAPE in the least restrictive environment?

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, called the IDEA, are to ensure:

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

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Each party bore the burden of proof on their 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 11 years old and in fifth grade at the time of hearing. Student resided within Etiwanda's geographic boundaries at all relevant times. Student was eligible for special education under specific learning disability and other health impairment. He enjoyed biking, fishing, and catching lizards.

Student demonstrated many positive traits in his school setting. He was polite and kind to all. He communicated appropriately and had age-appropriate fine and gross motor skills. Although his scores on cognitive testing were inconsistent, he scored in the average range on some tests.

Student's educational challenges included severe mixed dyslexia and anxiety. Student's expert witness, Dr. Jerry Turner, described Student as having high levels of learned helplessness. Student knew he could not read, unlike his peers. He tended to shut down and would not attempt difficult or non-preferred tasks.

ISSUE 1(a): DID ETIWANDA DENY STUDENT A FAPE IN THE JANUARY 17, 2024 IEP BY FAILING TO DEVELOP MEASURABLE GOALS FOR LETTER AND SOUND IDENTIFICATION, MATH FOUNDATIONAL FACTS AND FLUENCY, AND INDEPENDENT SENTENCE WRITING?

In his complaint, Student alleged Etiwanda's goals did not include accurate baseline data and were therefore unmeasurable. Student did not address this issue in his opening statement or closing brief. However, because Student did not explicitly withdraw the issue, it is not deemed abandoned.

Etiwanda contends it proposed goals for Student that were at his level and addressed all areas of suspected disability. Etiwanda argues the goals addressed Student's extreme deficits in the foundational skills necessary for reading and writing.

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 School Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

An IEP must be “appropriately ambitious.” (*Andrew F., supra*, 580 U.S. 386, 402-403.) An IEP that offers “merely more than de minimis” progress violates the IDEA. (*Id.*) An IEP must be crafted to meaningfully benefit a student. (*Los Angeles Unified School Dist. v. A.O.* (9th Cir. 2024) 92 F.4th 1159.)

An annual IEP must contain a statement of measurable annual goals designed to: meet the individual’s needs that result from the individual’s disability to enable the pupil to be involved in and make progress in the general curriculum; and meet each of the pupil’s other educational needs that result from the individual’s disability. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2)(i); Ed. Code, § 56345, subd. (a)(2).) 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*, 213 IDELR 118 (U.S. Dept. of Educ., Office of Special Education and Rehabilitative Services [OSERS] 1988); Notice of Interpretation, Appendix A to 34 C.F.R., part 300, Question 4 (1999 regulations).)

Under California regulations, an IEP must show a direct relationship between the present levels of performance, the goals, and the educational services to be provided. (Cal. Code Regs., tit. 5, § 3040(c).)

Student enrolled in Etiwanda in the middle of his third-grade year, on December 4, 2023. Etiwanda developed an interim IEP for Student based upon a May 2, 2023, initial IEP from Rialto Unified School District, called Rialto. Etiwanda’s interim offer included the annual IEP goals from Rialto, and 600 minutes per month of pull-out specialized academic instruction with a special education teacher in the resource specialist program.

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The goals in this interim IEP, as developed by Rialto, were as follows:

- In reading fluency, a goal in identifying syllabic breaks for words with up to three syllables, such as “butterfly”;
- In reading comprehension, a goal requiring him to read a third-grade level informational text and answer questions by writing a sentence with a supporting detail, using a sentence frame;
- In written expression, a goal requiring him to write a compound sentence;
- In math, a goal requiring him to add and subtract three-digit numbers by three-digit numbers; and
- In prevocational skills, a goal requiring him to state and write his full birthdate and an emergency contact phone number.

Student attended Catherine Gomez’s general education third-grade classroom within Etiwanda. Gomez observed that Student’s reading skills were at kindergarten levels. He required one-on-one instruction for all academic activities, as well as prompting and reteaching. He did not have the foundational skills to access third-grade content. Special education teacher Julia Ramirez observed that during his first 30 days in Etiwanda Student frequently said, “I don’t know,” and would shut down and give up. He put his head on the table and appeared defeated.

On January 17, 2024, Etiwanda convened its first IEP team meeting for Student, a 30-day review. The IEP team discussed Student’s present levels of performance as reflected within his first 30 days at Etiwanda. Student’s ability levels were far below the skills expected in the annual IEP goals developed by Rialto.

Student could not read a single one-syllable word. He could name seven letters: t, a, I, o, l, x, and z. He could not produce any letter sounds. When Etiwanda attempted to work on Rialto's reading fluency goal with Student he said, "I don't get it," and tried to avoid the task.

At the January 17, 2024 IEP team meeting, Etiwanda recommended discontinuing Rialto's reading fluency goal. The Etiwanda IEP team proposed replacing Rialto's reading goal with three phonics goals. An Etiwanda special education teacher was tasked with collecting data and observing Student's progress on each goal.

- Proposed phonics goal 1 asked Student to orally produce the phonemes, or sounds, of 20 out of 26 letters, in two out of three opportunities.
- Proposed phonics goal 2 required Student to write 20 out of 26 letters when given a letter name or sound, in two out of three trials.
- Proposed phonics goal 3 asked Student to decode and blend 10 consonant-vowel-consonant words, such as "cat" and "hop," in two out of three trials with 70 percent accuracy.

Etiwanda's staff observed Student could not read a third-grade level informational text. He could not write a sentence. Etiwanda recommended discontinuing Rialto's reading comprehension goal.

Within his first 30 days at Etiwanda, Student demonstrated he could not write any words or simple sentences. Etiwanda recommended discontinuing Rialto's written expression goal.

Math was a relative strength for Student. However, his i-Ready math assessment scores from December 7, 2023, revealed Student's math skills were at the kindergarten level. i-Ready is an online educational program used in schools to assess and boost student performance in reading and math. Within his first 30 days in Etiwanda, Student demonstrated he could rote count from one to 37 and write the numbers one through 10. He also inconsistently added and subtracted two-digit by one-digit numbers, within 50. Etiwanda recommended discontinuing Rialto's math goal. Etiwanda proposed a math goal requiring Student to solve addition and subtraction problems within 100, with 70 percent accuracy in three out of four trials, as measured by a special education teacher.

When Etiwanda staff tried to work on Rialto's prevocational goal with Student, they observed it was above his current ability level. Etiwanda recommended discontinuing Rialto's prevocational goal. Etiwanda proposed a task initiation goal requiring him to begin tasks with only one to two prompts, in eight out of 10 opportunities, as measured by a special education teacher.

On March 6, 2024, Etiwanda convened another IEP team meeting to discuss Parent's concerns, and to continue the discussion from the January 17, 2024 IEP team meeting. The IEP team reviewed additional informal data and work samples.

Etiwanda's special education coordinator Lorena Arias-Aguilar attended the March 6, 2024 meeting. Prior to this role, she was a school psychologist. She held a bachelor's degree in psychology, a master's degree in education, and a diplomate in school neuropsychology.

Arias-Aguilar recalled Student's math work samples reflected skills in the kindergarten through first-grade level. In reading, he was at the level of recognizing sound-symbol correspondence. She was aware of the initial assessments from Rialto which suggested Student may have average cognitive ability. However, she was concerned that his processing abilities, specifically his working memory, were significantly impacted. He appeared to be unable to hold sounds and symbols together in his mind and manipulate them into reading.

At the IEP team meeting on March 6, 2024, Parent's advocate suggested she had concerns with Etiwanda's proposed IEP goals. Parent's advocate felt that the proposed goals had low expectations. She preferred goals to be set at the grade level for Student, which was third grade at the time. However, Etiwanda members of the IEP team observed Student's difficulties when they tried to implement Rialto's goals, which were too ambitious for Student. Etiwanda correctly determined that Student required goals based upon his present levels of performance, including foundational reading skills and kindergarten to first-grade math skills.

The preponderance of the evidence showed Etiwanda offered Student appropriate, measurable goals in letter and sound identification, and math foundational facts and fluency, in the January 17, 2024 IEP. The three phonics goals proposed by Etiwanda addressed Student's needs for goals in letter and sound identification, and were measurable. Etiwanda's proposed math goal, requiring Student to solve addition and subtraction problems, addressed Student's need in math foundational facts and fluency, and was measurable.

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The evidence also supported Etiwanda's decision not to offer Student a goal for independent sentence writing because his skills were too low to reasonably attain such a goal within a year. He required foundational skills such as writing words, and the ability to initiate tasks and work independently before he could attempt to independently write sentences

As such, Etiwanda did not deny Student a FAPE by failing to develop measurable goals for letter and sound identification, math foundational facts and fluency, and independent sentence writing in the January 17, 2024 IEP.

ISSUE 1(b): DID ETIWANDA DENY STUDENT A FAPE IN THE JANUARY 17, 2024 IEP BY FAILING TO OFFER APPROPRIATE SUPPORT AND SERVICES IN READING, WRITING, AND MATH?

Student contends Etiwanda failed to offer him an appropriate reading program, partly due to its failure to recognize Student's dyslexia.

Etiwanda contends it offered and made available to Student a FAPE in the least restrictive environment at all relevant times.

An IEP must include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child. An IEP must include a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals. It must state how the child will be involved in and make progress in the general

education curriculum and participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and nondisabled children in the activities described in federal regulations. (34 C.F.R. § 300.320(a)(4).)

Related services are supportive services that a disabled student requires to benefit from special education. (34 C.F.R. § 300.34.) Related services include developmental, corrective, and supportive services. (*Ibid.*)

The IDEA accords educators discretion to select from various methods for meeting the individualized needs of a student, provided those practices are reasonably calculated to provide educational benefit. (*R.P. v. Prescott Unified Sch. Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122.)

Etiwanda believed Student required significant support in all academic areas, based upon the information they gathered during his first 30 days in the district. At the January 17, 2024 and March 6, 2024 IEP team meetings, Etiwanda offered Student 1,285 minutes per week of specialized academic instruction in a mild to moderate special day class. A special day class is a self-contained special education classroom for students with educational needs that cannot be met in the general education classroom. Student would receive reading, writing, and math support and services from a special education teacher. The mild to moderate classroom used grade level curriculum, including the English language arts curriculum Language! Live and the math curriculum Number World, delivered at a slower pace. Etiwanda determined the slower pace of instruction and small classroom size would provide Student the support he needed.

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Parent cried when she heard the offer for a special day class at the January 17, 2024 IEP team meeting. Parent hypothesized one reason Student was behind academically was because he was in transitional kindergarten during the COVID-19 pandemic school closures in the 2019-2020 school year. His transitional kindergarten and kindergarten years were online, making it difficult for him to learn foundational skills. Parent was shocked and taken aback by the suggestion of a special day class placement for a Student. She told the team she needed more time to consider the offer. Assistant principal Sylvia Esparza-Gonzalez offered Parent an observation of the proposed classroom, but Parent did not accept the invitation. Parent hired an education advocate who she brought to the March 6, 2024 IEP team meeting. Parent's advocate told the IEP team that she and Parent were opposed to a special day class placement for Student.

At the March 6, 2024 IEP team meeting, special education coordinator Arias-Aguilar explained that the Etiwanda team recommended Student receive the reading intervention program Project Read for 60 minutes per session, five days per week. Project Read is a multisensory reading intervention program that addresses phonics. This intensive reading intervention program would take place in the mild to moderate special day class. She also explained that Etiwanda had available the Barton reading intervention program, but Student did not have the foundational skills to begin that program. Arias-Aguilar believed students needed sound-symbol correspondence before they could access the beginning levels of the Barton program. Project Read addressed the foundational reading skills Student required, such as learning letters and sounds.

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Based upon the information Etiwanda had at the time of the January 17, 2024, and March 6, 2024 IEP team meetings, the offer of 1,285 minutes per week of specialized academic instruction in a mild to moderate special day class was appropriate for Student. Student's academic skills were so low that he required specialized academic instruction for most of his school day, including in all academic areas. The offer of Project Read was reasonably calculated to enable Student to make progress in reading and writing. Additionally, the curriculum and slower pace of the mild to moderate special day class was appropriate to support Student's significant needs in math and writing.

Etiwanda did not deny Student a FAPE by failing to offer appropriate support and services in reading, writing, and math at the IEP team meetings in the January 17, 2024 IEP.

ISSUE 1(c): DID ETIWANDA DENY STUDENT A FAPE IN THE JANUARY 17, 2024 IEP BY FAILING TO OFFER PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT?

Student contends a special day class setting is too restrictive for Student. Student argues placing him in a special day class will reinforce his incorrect belief that he is stupid. Student further contends the least restrictive environment for him is general education, with appropriate services and supports, including an evidence-based reading program for students with dyslexia.

Etiwanda contends its offer of a mild to moderate special day class was an appropriate placement for Student in the least restrictive environment. Etiwanda argues Student could have made progress on his IEP goals in the special day class setting.

School districts are required to provide each special education student with an appropriate program in the least restrictive environment. Removal from the regular education environment may only occur when the nature or severity of the student's disabilities is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114 (a)(2); Ed. Code, §§ 56031, 56033.5.) The IDEA also requires, to the maximum extent appropriate, that a child with a disability be educated with children who are not disabled. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2); Ed. Code, § 56040.1, subd. (a).)

When determining whether a placement is the least restrictive environment for a child with a disability, four factors must be evaluated and balanced:

- the educational benefits of full-time placement in a regular classroom;
- the non-academic benefits of full-time placement in a regular classroom;
- the effect the presence of the child with a disability has on the teacher and children in a regular classroom; and
- the cost of placing the child with a disability full-time in a regular classroom.

(Ms. S. v. Vashon Island School Dist. (9th Cir. 2003) 337 F.3d 1115, 1136-1137;
Sacramento City Unified School Dist. v. Rachel H. (9th Cir. 1994) 14 F.3d 1398, 1404
(Rachel H.))

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

- regular education;
- resource specialist programs;
- designated instruction and services;
- special classes;
- non-public, non-sectarian schools;
- state special schools;
- specially designed instruction in settings other than classrooms;
- itinerant instruction in settings other than classrooms; and
- instruction using telecommunication, instruction in the home, or instruction in hospitals or institutions.

(34 C.F.R. § 300.115; Ed. Code, § 56361.)

If it is determined that a child cannot be educated in a general education environment, then the analysis requires determining whether the child has been mainstreamed to the maximum extent that is appropriate in light of the continuum of program options. (*Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1048-1050.)

In resolving the question of whether a school district has offered a FAPE, the focus is on the adequacy of the school district's proposed program. (See *Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.) A school district is not required to place a student in a program preferred by a parent, even if that program will result in greater educational benefit to the student. (*Ibid.*)

Etiwanda offered Student a placement in a mild-moderate special day class at the January 17, 2024 and March 6, 2024 IEP team meetings. The offer included mainstreaming into the general education environment for library time, physical education, lunch, and recess. The placement offer amounted to 79 percent of time in special education, and 21 percent in general education. The offer was more restrictive than his prior IEP from Rialto, which offered Student a general education class for most of his day, with approximately 30 minutes per day in the resource specialist program room.

The evidence showed Student received very little educational benefit from placement in a general education classroom. Because he could not read, Student could not access any of the academic activities in the third-grade general education environment. He was working on identifying letters and sounds, while the other third graders in the classroom were working on writing five paragraph essays with compound sentences. His classmates in Gomez's class were reading long texts with multi-syllable words, making inferences, and thinking deeply about the texts. Instead of participating with his classmates, Student received his instruction individually through third-grade teacher Gomez or her student teacher, usually at a table in the back of the classroom.

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Based on his performance and work samples in her class, Gomez believed the offer of a mild to moderate special day class was appropriate for Student at the time of the January and March 2024 IEP team meetings.

Student received only minimal non-academic benefit from placement in a general education class. Student was aware he was failing in the third-grade general education classroom. He became anxious and shut down. Although he would socialize with his classmates outside of the classroom on the soccer field and at recess, he would not participate with them in the classroom.

Student did not disrupt his third-grade general education classroom with maladaptive behavior. However, his academic needs were so great that he required constant adult support. Student required far more prompting than the other third graders. His need for adult support and individual instruction diverted the teacher's instruction and attention from his classmates.

The parties did not offer any evidence as to the cost of placement in general education.

Overall, the *Rachel H.* factors supported Etiwanda's placement offer of a mild-moderate special day class at the time of the January 17, 2024 and March 6, 2024 IEP team meetings. Student did not benefit from being in the general education classroom environment, educationally or otherwise. Additionally, the support from the resource specialist program was not sufficiently intensive to address his significant needs in all

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academic areas. Mainstreaming into the general education environment for library time, physical education, lunch, and recess was the maximum amount appropriate in light of the continuum of program options.

Etiwanda did not deny Student a FAPE by failing to offer placement in the least restrictive environment in the January 17, 2024 IEP.

ISSUE 2(a): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 19, 2024 IEP BY FAILING TO DEVELOP MEASURABLE GOALS FOR WORK REFUSAL, TURNING IN ASSIGNMENTS ON TIME, COMPLETING ASSIGNMENTS, ROTE COUNTING BEYOND 37, INDEPENDENT GRADE LEVEL MATH GRAPH READING, INDEPENDENT USE OF A MULTIPLICATION CHART, MULTIPLICATION AND DIVISION, LEARNING THE BALANCE OF SHAPES, LEARNING THE BALANCE OF THE ALPHABET, LEARNING THE BALANCE OF THE LETTER SOUNDS, SIGHT WORDS OR HIGH FREQUENCY WORDS READING FOR KINDERGARTEN THROUGH FOURTH GRADE, WRITING LAST NAME, USING ASSISTIVE TECHNOLOGY INDEPENDENTLY, AND LEARNING TO WRITE LETTERS AND NUMBERS?

In his complaint, Student alleged that while the goals proposed by Parent and her advocate at the April 19, 2024 IEP may have seemed overly ambitious, Parent was desperate for Student to make progress in reading. Student further alleged in his complaint that Etiwanda failed to offer goals for many foundational skills Student

lacked. Student did not address this issue in his opening statement or closing brief. However, because Student did not explicitly withdraw the issue, it is not deemed abandoned.

Etiwanda contends it was listening to the concerns of Parent and her advocate and attempting to work collaboratively with them when it offered goals at Student's grade level. Etiwanda argues Parent impeded Student's progress by refusing to agree to goals based upon his present levels of performance and rate of learning.

Parent did not consent to the January 17, 2024 IEP. Therefore, the last agreed upon and implemented IEP was still the interim IEP, based upon Rialto's initial IEP for Student. Thus, Student continued to be placed in general education class for most of his day, with approximately 30 minutes per day in the resource specialist program room working on the goals from that IEP.

Etiwanda convened Student's annual IEP team meeting on April 19, 2024. Parent attended with her advocate. The team reviewed Student's present levels of performance. Student made slow progress in reading. He could name 10 letters: t, a, i, o, l, c, b, w, x, and z. This was a gain of three new letters over a three-month period. He could now produce three out of 26 letter sounds: a, w, and x. He produced zero at the time of the January 17, 2024 IEP team meeting. In written expression, he could write his first name but not his last. In math, he could write numbers one through 16, which was a gain of six numbers. He could identify three out of six shapes. Behavior was impeding his learning because he refused to do schoolwork he perceived as difficult or boring, including work at his ability level, with supports, in the resource specialist program room.

Parent told the IEP team that dyslexia ran in her family. The advocate told the team Student might have dyslexia.

When the team discussed annual IEP goals, Parent and her advocate argued for the goals to be at Student's grade level. Etiwanda deferred to Parent, attempting to be collaborative. Student was still working on the interim IEP goals from Rialto, which Etiwanda did not believe were appropriate for Student.

Based on input from Parent's advocate, Etiwanda offered Student five new reading goals and one writing goal:

- Reading goal 1 involved giving Student a third or fourth grade level text, and requiring him to know and apply grade level phonics and decoding to read unfamiliar words in or out of context, with 80 percent accuracy in four out of five trials.
- Reading goal 2 involved giving Student a third or fourth grade level text, and requiring him to know and apply grade level phonics and blending to read unfamiliar words in or out of context, with 80 percent accuracy in four out of five trials.
- Reading goal 3 expected Student to read 70 words correct per minute at his independent reading level, in four out of five opportunities.
- Reading goal 4 involved giving Student a third or fourth grade level text, and requiring him to identify irregularly spelled words with 80 percent accuracy in four out of five trials.

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- Reading goal 5 required Student to use assistive technology to determine the main idea of a text, summarize the text, and provide key details, with 80 percent accuracy in four out of five trials.
- The writing goal required Student to write multiple paragraph texts, in clear and coherent writing appropriate to task, purpose, and audience, using assistive technology, with 80 percent accuracy in three out of four trials.

Based on input from Parent's advocate, Etiwanda offered Student three new math goals:

- Math goal 1 required Student to complete two-digit by two-digit addition problems, with regrouping, with 80 percent accuracy in three out of four trials.
- Math goal 2 required Student to complete two-digit by two-digit subtraction problems, with regrouping, with 80 percent accuracy in three out of four trials.
- Math goal 3 required Student to use assistive technology to solve third or fourth grade level math word problems with 80 percent accuracy.

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Etiwanda also offered Student a behavior goal and an attention goal:

- The behavior goal required Student to begin tasks with only one to two prompts, in eight out of 10 opportunities.
- The attention goal required Student to independently stay on task for seven minutes during whole group instruction with no more than two verbal prompts, in eight out of 10 opportunities.

For all goals, observations and data would be collected by both a general education teacher and a special education teacher.

Parent consented to these goals. At the beginning of the 2024-2025 school year, special education teacher Brittney Vongkesone became responsible for implementing Student's goals and services. Vongkesone had a bachelor's degree in child development, a master's degree in special education, and a multiple subject special education teaching credential. She was certified in Orton Gillingham and Lindamood Bell, structured literacy programs that use a multi-sensory approach to reading instruction. Vongkesone opined that the academic goals in the April 14, 2024 IEP were not appropriate for Student because they were too far above his ability level.

BEHAVIOR GOALS: WORK REFUSAL, TURNING IN ASSIGNMENTS ON TIME, COMPLETING ASSIGNMENTS

Etiwanda did not offer Student annual IEP goals for work refusal, turning in assignments on time, or completing assignments.

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Etiwanda was required to offer Student goals to meet each of his educational needs resulting from his disability, with a direct relationship to his present levels of performance as reflected in the IEP document. (See Ed. Code, § 56345, subd. (a)(2).; see also Cal. Code Regs., tit. 5, § 3040(c).)

As a result of his dyslexia and anxiety, Student refused to complete work he perceived as too challenging. He developed learned helplessness in his classroom because he could not read. School staff had observed him appearing defeated when given academic assignments, even from his first 30 days in the school district. The IEP team documented this behavioral challenge in the present levels of performance section of the April 19, 2024 IEP. Although the team offered goals for beginning and staying on tasks, these addressed Student's distractibility and executive functioning. Etiwanda did not offer any goals addressing the social-emotional factors underpinning his refusal to complete work. The evidence showed Student required a goal to address his work refusal. Student met his burden of proof that Etiwanda denied him a FAPE by failing to offer him a goal related to work refusal.

However, during the due process hearing, Student did not offer any evidence that turning in assignments on time, or completing assignments were educational needs for Student resulting from his disability. The present levels of performance section of the IEP did not document these as areas of need requiring goals.

Student did not meet his burden of proof that Student required separate goals in turning in assignments on time and completing assignments.

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MATH GOALS:

- ROTE COUNTING BEYOND 37,
- INDEPENDENT GRADE LEVEL MATH GRAPH READING,
- INDEPENDENT USE OF A MULTIPLICATION CHART,
MULTIPLICATION AND DIVISION,
- LEARNING THE BALANCE OF SHAPES

Etiwanda did not offer Student annual IEP goals for

- rote counting beyond 37,
- independent grade level math graph reading,
- independent use of a multiplication chart, multiplication and division, or
- learning the balance of shapes.

The present levels of performance section of the April 19, 2024 IEP documented that Student had needs related to his disabilities in rote counting beyond 37, math graph reading, and learning shapes. The IEP document noted that Student could only rote count to 37. He read math graphs at a first-grade level. He could name three out of six shapes: star, circle, and rectangle. Because these foundational math skills were far below grade level expectations, they were not addressed in the general education curriculum. Based upon Student's documented needs in the IEP, he required annual IEP

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goals in rote counting beyond 37, math graph reading, and learning shapes. As such, Student met his burden of proof Etiwanda denied him a FAPE by failing to offer goals in these areas.

The IEP document does not reference Student's skills with division. During the due process hearing, Student did not offer any evidence that he required a goal in division. Additionally, while the IEP stated Student was learning to use a multiplication chart accurately, Student did not offer evidence that he required a goal in multiplication or using a multiplication chart independently. Multiplication and division skills were addressed in the general education third grade environment. While an IEP must offer a student IEP goals designed to meet each of the educational needs of the student resulting from the student's disability, and IEP does not need to contain every goal from which a student might benefit. (*Capistrano Unified School Dist. v. S.W.* (9th Cir. 2021) 21 F.4th 1125, 1133.)

Student did not meet his burden of proof Etiwanda denied him a FAPE by failing to offer goals in division, multiplication, or using a multiplication chart independently.

READING AND WRITING GOALS:

- LEARNING THE BALANCE OF THE ALPHABET,
- LEARNING THE BALANCE OF THE LETTER SOUNDS,
- SIGHT WORDS OR HIGH FREQUENCY WORDS READING FOR KINDERGARTEN THROUGH FOURTH GRADE,
- WRITING LAST NAME,

- USING ASSISTIVE TECHNOLOGY INDEPENDENTLY, AND
- LEARNING TO WRITE LETTERS AND NUMBERS

Etiwanda did not offer Student annual IEP goals for

- learning the balance of the alphabet,
- learning the balance of the letter sounds, sight words or high frequency words reading for kindergarten through fourth grade,
- writing his last name,
- using assistive technology independently, or
- learning to write letters and numbers.

The present levels of performance section of the April 19, 2024 IEP documented that Student had needs related to his disability in learning the balance of the alphabet, learning the balance of the letter sounds, and sight words or high frequency words reading for kindergarten through fourth grade. In the present levels section of the IEP, the team noted that Student was working on letter and sound identification. He could point to six out of 11 kindergarten sight words. He was working on writing letters by tracing them. The foundational skills were not taught in the general education third grade curriculum

Etiwanda denied Student a FAPE by failing to offer him annual IEP goals in learning the balance of the alphabet, learning the balance of the letter sounds, and sight words or high frequency words reading for kindergarten through fourth grade.

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The IEP document does not discuss Student's ability to write his last name, or numbers. The IEP document is silent as to whether these are areas of need. Additionally, Student did not offer evidence at the due process hearing that these were area of need requiring IEP goals.

Additionally, Student did not show he needed a dedicated IEP goal to use assistive technology independently. Etiwanda completed an assistive technology evaluation of Student on May 6, 2024, and offered training to staff to support Student in using assistive technology.

Student did not meet his burden of proof that Etiwanda denied Student a FAPE by failing to offer him goals in assistive technology and writing numbers and his last name.

ISSUE 2(b): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 19, 2024 IEP BY FAILING TO OFFER APPROPRIATE SERVICES AND SUPPORT IN READING, WRITING, AND MATH?

Student contends Etiwanda failed to offer him an appropriate reading program. Student argues Etiwanda staff knew Student was not making progress, but allowed him to wallow rather than altering his academic programs.

Etiwanda contends it offered and made available to Student a FAPE in the least restrictive environment at all relevant times.

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2023-2024 SCHOOL YEAR: APRIL 19 AND MAY 6, 2024 IEP TEAM MEETINGS

At the annual IEP on April 19, 2024, Parent's primary concerns were Student's reading, writing, and math struggles. Student had been receiving the 600 minutes per month, or 30 minutes per day, pull-out specialized academic instruction originally calculated by Rialto, because Parent did not agree to change Student's placement to a mild to moderate special day class.

Student was performing poorly in the third-grade general education environment. Etiwanda sent Parents a notice of unsatisfactory progress due to his low grades. As of April 11, 2024, Student had C's in reading and writing, D's in speaking and listening, language, and history/social studies, and an F in math. Student did not participate in group work and sometimes refused to complete assignments.

Due to the concerns of Parent and her advocate, Etiwanda retreated from its offer of a mild to moderate special day class. Instead, Etiwanda offered to keep Student in his placement in general education and increase the amount of specialized academic instruction. Etiwanda offered Student pull-out specialized academic instruction in the resource specialist program for 45 minutes per day, five days per week, totaling 225 minutes weekly. Etiwanda also offered Student specialized academic instruction pushed into his general education classroom for 60 minutes per day, four days per week, totaling 240 minutes. This amounted to around three times more specialized academic instruction than he was previously receiving.

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Additionally, Etiwanda offered Student a full-time one-on-one aide at the continuation meeting on May 6, 2024. The aide was responsible for supporting Student's academic work. Parent consented to the April 19, 2024 IEP in its entirety.

Parent and her advocate continued to inform Etiwanda they suspected Student had dyslexia. At the April 14, 2024 IEP team meeting, Parent reminded the team of the family history of dyslexia, and stated she had also raised those concerns with Rialto. The advocate suggested Student had dyslexia. Parent also told Denise Kuske, Etiwanda's assistive technology specialist, as part of an assistive technology assessment, she suspected Student had dyslexia.

For the remainder of the 2023-2024 school year, Etiwanda continued to offer Student the reading intervention program Project Read. Student made minimal progress with this program. However, at the time of the April 14, and May 6, 2024 IEP team meetings, Student had only been receiving the reading intervention program for four or five months. Special education coordinator Arias-Aguilar acknowledged Student was making slow progress with Project Read, but believed four months was not long enough to determine whether the program was working. She continued to believe Project Read addressed the foundational reading skills Student required, such as learning letters and sounds. Etiwanda's continued offer of Project Read as a pull-out service, along with the Wonders curriculum in the general education class, was reasonably calculated based upon the short amount of time Student had been receiving the interventions.

For math, Etiwanda continued to offer Student the Go Math curriculum in the general education environment. Go Math used whole and small group instruction, and some one-on-one support from the classroom teacher. Student was making some progress with this curriculum. When he entered Etiwanda, he could only add and

subtract single digit numbers, inconsistently. By April 19, 2024, he could add and subtract two-digit numbers. Based upon his success, the continued offer of services and supports in math were reasonably calculated to enable Student to make educational progress in light of his circumstances.

2024-2025 SCHOOL YEAR: AUGUST 29, SEPTEMBER 13, AND
NOVEMBER 20, 2024 AND FEBRUARY 11, 2025 IEPS

For the 2024-2025 school year, Etiwanda offered Student the reading intervention program Really Great Reading. Etiwanda replaced Project Read with Really Great Reading for the entire school district. Really Great Reading was a multisensory reading intervention program. The program included books, videos, and a working board with letter tiles. Teachers received six hours of training on Really Great Reading prior to the beginning of the school year.

Special education teacher Vongkesone provided Student's pull-out and push-in specialized academic instruction in reading, writing, and math, for the 2024-2025 school year. For pull-out services, she provided him with 30 minutes per day reading instruction and 15 minutes per day math instruction. At the beginning of the year Vongkesone attempted to work with Student in a small group format but quickly realized that was not working and switched to individualized services.

The IEP team met on August 29, 2024, to review assessments in occupational therapy and central auditory processing, but did not make any changes to Student's services and supports in reading, writing, and math.

On September 13, 2024, Etiwanda convened an IEP team meeting to discuss the results of an assessment in speech and language. The IEP team suggested school-based counseling for Student and agreed to a mental health assessment. Parent noted on the IEP that she did not believe Etiwanda was offering Student a FAPE and requested evidence-based remediation to address his academic deficits. At the IEP team meeting, the advocate told them Student was showing signs of dyslexia.

Student struggled in his fourth-grade general education classroom. On September 18, 2024, Etiwanda sent Parents another notice of unsatisfactory progress. Student had a C in speaking and listening, D's in history and science, and F's in language and math. His citizenship grade was marked unsatisfactory, mostly due to his failure to complete homework.

By October 29, 2024, Student was making progress on his math and behavior IEP goals. However, Student had slightly regressed in reading. He only recognized eight out of 26 letters and two out of 26 letter sounds, whereas in April 2024, he could name 10 letters and produce three letter sounds. He had not made progress on his writing goals.

On November 20, 2024, the IEP team met to discuss the results of the mental health assessment. The team added individual mental health counseling but did not change his supports and services in reading, writing, or math.

On February 11, 2025, the IEP team met to review Student's present levels of performance and progress on goals. Student's i-Ready assessment scores from December 2024 showed he was still performing at the kindergarten level in reading and math.

However, Student made some progress in his math skills. He could rote count to 110, compared to 37 in April 2024. He recognized one more shape and could add three digit numbers with regrouping. Based upon these gains in math skills, the continued offer of Go Math in the general education classroom with the extra support of Vongkesone in the resource specialist program was reasonably calculated to meet Student's needs in math in the April 19, 2024 IEP. Etiwanda did not deny Student a FAPE by failing to offer appropriate services and support in math.

Student was not making progress in reading and writing. The team disagreed about how to address Student's needs. Etiwanda staff argued they had been implementing the Really Great Reading program with fidelity. They believed this reading intervention program supported students with dyslexia. However, school staff did not believe his current goals were attainable for him. They suggested new goals in

- letter identification,
- sound identification,
- phonological awareness,
- language,
- reading, and
- math.

Parent and her advocate did not agree to new goals. They believed he needed grade level-goals and accused Etiwanda of offering Student kindergarten level standards.

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Etiwanda denied Student a FAPE when it did not address his lack of progress in reading and writing at the February 11, 2025 IEP team meeting. Etiwanda had implemented the Really Great Reading intervention program since the beginning of the 2024-2025 school year. By this point, it was clear Student made minimal progress using the Really Great Reading program. The IDEA required Etiwanda to select a reading methodology reasonably calculated to provide Student educational benefit. (See *R.P. v. Prescott Unified Sch. Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122.) When a methodology is not working for a student, it is incumbent on the educators to use their expertise to find a new methodology. The IEP team should have considered the data available, including regression in some areas, to offer Student a different reading intervention program. Instead, of responding to the needs of Student, the IEP team only considered the few programs and curriculum adopted district wide. Additionally, the team had been told many times that Student might have dyslexia, but the team failed to discuss and offer an intervention program specifically designed for students with dyslexia.

The preponderance of the evidence showed Etiwanda denied Student a FAPE in the April 19, 2024 IEP because at the February 11, 2025 IEP team meeting Etiwanda failed to offer him appropriate services and supports in reading and writing.

ISSUE 2(c): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 19, 2024 IEP BY FAILING TO OFFER EXTENDED SCHOOL YEAR FOR SUMMER 2024?

In his complaint, Student generally alleged he required extended school services because he was very far behind his peers academically. Student did not address this issue in his opening statement or closing brief. However, because Student did not explicitly withdraw the issue, it is not deemed abandoned.

Etiwanda contends it offered and made available to Student a FAPE in the least restrictive environment at all relevant times.

Extended school year services are special education and related services provided to a child with a disability beyond the normal school year. (34 C.F.R. § 300.106 (b); Cal. Code Regs., tit. 5., § 3043.) An IEP team decides if a child requires extended school year services to receive a FAPE. (34 C.F.R. § 300.106(a)(2).) For a student to qualify for extended school year services, the student must have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the student's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the student will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition. (Cal. Code Regs., tit. 5., § 3043.)

Prior to summer 2024, Etiwanda did not have data supporting extended school year services for Student. Because he enrolled in Etiwanda in December 2023, during the middle of his third-grade year, the school district did not have the opportunity to analyze data regarding how he was impacted by extended school breaks. Etiwanda had no reason to believe he required extended school year services according to his existing IEP from Rialto. Further, Parent did not request extended school year services at the April 2024 IEP team meeting.

As such, Etiwanda did not deny Student a FAPE by failing to offer him extended school year services for the summer of 2024.

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ISSUE 3(a): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 1, 2025 IEP BY FAILING TO DEVELOP MEASURABLE GOALS FOR

- EXECUTIVE FUNCTIONING,
- PEER ACADEMIC ENGAGEMENT,
- WORK PRODUCTION AND TASK COMPLETION,
- HANDWRITING,
- TYPING,
- MATH FACTS,
- MATH FLUENCY, AND
- INCREASING ACADEMIC INDEPENDENCE?

In his complaint, Student alleges Etiwanda failed to offer Student goals in all areas of need in the April 1, 2025 IEP. Student did not address this issue in his opening statement or closing brief. However, because Student did not explicitly withdraw the issue, it is not deemed abandoned.

Etiwanda contends it offered Student appropriate goals to address the foundational skills Student needed to learn to read, as well as addressing his needs in writing, math, and social/emotional/behavioral.

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On April 1, 2025, Etiwanda convened an IEP team meeting for Student's annual review, and to consider the results of an independent educational evaluation. Rialto funded the independent educational evaluation, which was conducted by Dr. Jerry Turner and his colleagues.

Dr. Turner holds a bachelor's degree in social sciences, master's degrees in psychology and school psychology, and a doctorate degree in psychology. He is licensed as an educational psychologist in California, and as a school psychologist in Texas, Arizona, and Nevada. Dr. Turner has broad expertise in dyslexia.

However, Etiwanda successfully impeached Dr. Turner with respect to his knowledge of Student's educational program and needs within Etiwanda. Dr. Turner had not reviewed recent, relevant documents and assessments related to Student when he was doing his assessment or prior to testifying at hearing. He relied on outdated information from Rialto more than two years old. He was not familiar with Etiwanda's special day classes. He could not recall whether he had observed Student in his classroom at Etiwanda. Although Dr. Turner is knowledgeable about dyslexia in general, he had unreliable information and opinions when it came to Student specifically. As such, his testimony was given only modest weight.

The team discussed Student's progress on his annual IEP goals. Student made progress on his goals in math, behavior, attention, and mental health.

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However, Student did not make progress on his reading and writing goals. When asked to spell, he said, "I don't know." He did not want to use assistive technology. When school staff worked on assistive technology goals, he would put his head on the table or hit the reader pen against the table. When teachers attempted to work on his reading goals, he became frustrated to the point of crying. He hit himself in the face and kicked furniture.

The IEP team discussed his present levels of performance. Socially and emotionally, Student was struggling in his fourth-grade classroom. He had difficulty managing his emotions when tasks were challenging or non-preferred. He was frequently anxious and disengaged. He would shut down, even with adult support. He needed one-on-one support and step-by-step directions to complete any academic tasks. Student was acutely aware of his academic challenges and how he compared to his peers.

The IEP team reviewed Student's i-Ready assessment data. In reading, he was still performing at the kindergarten level. In math, he was performing at the first-grade level.

Student's reading and writing abilities remained extremely low. He could write his first name, but nothing else. He could identify 13 out of 26 lower case letters and 12 out of 26 upper case letters. He knew four letter sounds. He could not read any high frequency words. He could not decode or encode any consonant-vowel-consonant words. Listening comprehension was a relative strength, and Student showed skills in the second to fifth grade level. Dr. Turner reported Student had a severe case of mixed dyslexia.

At the April 1, 2025 IEP team meeting, Etiwanda offered Student nine goals related to reading and writing:

- Goal 1 required Student to expressively identify all 52 lower and uppercase letters when presented with random letters in a field of three, with 95 percent accuracy in two out of three opportunities.
- Goal 2 required Student to identify 26 letter sounds when presented with random letters in a field of three, with 90 percent accuracy in two out of three opportunities.
- Goal 3 required Student to blend, or read, 10 consonant-vowel-consonant words with 90 percent accuracy in two out of three opportunities.
- Goal 4 required Student to encode, or spell, 10 consonant-vowel-consonant words with 90 percent accuracy in two out of three opportunities.
- Goal 5 required Student to identify a word by correctly pointing to it, out of a field of three, when provided 10 pre-primer level high frequency words, with 90 percent accuracy in two out of three opportunities.
- Goal 6 required Student to fluently read consonant-vowel-consonant words, with 90 percent accuracy in two out of three opportunities.

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- Goal 7 required Student to identify grade level vocabulary words, from a list of 10, by pointing to a corresponding picture of an antonym, from a field of three, with 80 percent accuracy in two out of three opportunities.
- Goal 8 required Student to sequence a grade level story, read aloud to him, by identifying the beginning, middle, and end, with 80 percent accuracy in two out of three opportunities.
- Goal 9 required Student to write a complete sentence, using assistive technology and a writing checklist, with one or two prompts, with 80 percent accuracy in two out of three opportunities.

Etiwanda offered Student three math goals:

- Math goal 1 required Student to solve 10 multi-step word problems read aloud to him, with 80 percent accuracy in two out of three opportunities.
- Math goal 2 required Student to solve 10 multiplication problems involving threes, fours, and fives, when given a multiplication table, with 80 percent accuracy in two out of three opportunities.
- Math goal 3 required Student to select the correct operation to solve five grade-level word problems, with 80 percent accuracy in two out of three opportunities.

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Etiwanda also offered Student a behavior goal and a counseling goal. The behavior goal required Student to engage in a non-preferred task, or use a functional coping strategy, instead of engaging in unsafe behavior, in nine out of 10 opportunities. The counseling goal required Student to identify stressful thoughts and learn to use reframing or other coping skills, in two out of three opportunities during individual counseling sessions.

Etiwanda did not offer Student any goals specifically labeled

- executive functioning,
- peer academic engagement,
- work production and task completion,
- handwriting,
- typing,
- math facts,
- math fluency, or
- increasing academic independence.

However, Student failed to meet his burden of proof that he required goals in any of these areas.

Special education teacher Vongkesone attended the April 1, 2025 IEP team meeting and provided input for the goals. She knew Student well from providing services to him from the beginning of the 2024-2025 school year. She also had specialized training in

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reading interventions for students with disabilities, such as Orton-Gillingham and Lindamood Bell. Vongkesone was calm, candid, and professional during testimony at hearing. She did not exaggerate her knowledge or expertise. As such, her testimony was given significant weight. Vongkesone persuasively testified as to how each of the academic and behavior goals were appropriate for Student and tailored to his needs.

Mental health counselor Maria Galvan-Perry developed Student's counseling goal. She had previously assessed him in mental health and was providing counseling services to him. She had good rapport with Student. She observed that Student sometimes had irrational thoughts, which led to him becoming agitated, angry, and anxious. She drafted an IEP goal to help him identify those thoughts and reframe them to something more rational or positive. Galvan-Perry persuasively testified the counseling goal was appropriate for Student.

Student's expert witness, Dr. Turner, also testified that the goals Etiwanda offered in the April 1, 2025 IEP, were appropriate.

As such, Etiwanda did not deny Student a FAPE by failing to offer Student measurable IEP goals in the April 1, 2025 IEP:

- executive functioning,
- peer academic engagement,
- work production and task completion,
- handwriting,
- typing,
- math facts,

- math fluency, or
- increasing academic independence.

ISSUE 3(b): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 1, 2025 IEP BY FAILING TO OFFER APPROPRIATE SERVICES AND SUPPORT IN READING, WRITING, AND MATH?

Student contends Etiwanda continued to offer Student an ineffective reading intervention program because Really Great Reading was the program the school district adopted. Student argues Etiwanda failed to change the reading intervention based on Student's individual needs and dyslexia even while it was aware he was not making progress.

Etiwanda contends its offer of the programs Language! Live and Really Great Reading, within the special day class environment, was appropriate to allow him to make meaningful progress in reading and writing.

Etiwanda denied Student a FAPE by failing to offer Student appropriate reading and writing services and supports in the April 1, 2025 IEP. The team was aware Student was not making progress with Really Great Reading. Arias-Aguilar told the IEP team Student was not making progress with the program. However, after extended discussion by the IEP team, she ultimately told Parent, "The intervention that best meets his needs is the Really Great Reading program, and despite the disagreement, the District stands by that program."

A school district may choose the methodology to deliver educational instruction to a student as long as the methodology meets the student's needs and is reasonably

calculated to provide meaningful educational benefit to the student. (*Crofts v. Issaquah School Dist. No. 411* (9th Cir. 2022) 22 F.4th 1048, 1056-57, citing *R.P. ex rel. C.P. v. Prescott Unified School Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122.) Here, the Really Great Reading program was not meeting Student's needs. Student had been using the program for eight months without success. In fact, his reading skills showed almost no progress since the April 19, 2024 IEP. Yet, Etiwanda did nothing to investigate whether his reading needs could be met using a different methodology.

Etiwanda's continued offer of this program was not reasonably calculated to provide Student meaningful educational benefit at the time of the April 1, May 13, and August 25, 2025 IEP team meetings.

In the April 1, 2025 IEP, Etiwanda offered Student math instruction in the special day class using the Go Math and Number World curriculums. Math was a relative strength for Student. The April 1, 2025 progress report showed he met two of his three IEP goals in math, and made some progress on the third. However, Student remained over two grade levels below expectations. Additionally, when school staff attempted to help Student with math word problems, he often put his head down on the table out of frustration or hit the table with his pen. The slow pace and small class size of the special day class, using grade level aligned curriculum, was reasonably calculated to provide Student meaningful educational benefit.

Etiwanda did not deny Student a FAPE by failing to offer Student appropriate math services and supports in the April 1, 2025 IEP.

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ISSUE 3(c): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 1, 2025 IEP BY FAILING TO OFFER STUDENT PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT?

Student contends Etiwanda's offer of a special day class was too restrictive for Student. Student argues that, due to his kind temperament and average cognitive ability, the appropriate setting for him is a general education classroom with appropriate services and supports.

Etiwanda contends its offer of a mild to moderate special day class was an appropriate placement for Student in the least restrictive environment. Etiwanda argues the special day class provided grade-level curriculum at a slower pace and in a smaller setting. Etiwanda further contends Student would benefit from being part of a learning community working on similar skills.

In the April 1, 2025 IEP, Etiwanda offered Student 1,445 minutes per week of specialized academic instruction in a mild to moderate special day class. Student would receive English language arts, math, science, and social studies in the special day class. The placement offer amounted to 77 percent of time in special education, and 23 percent in general education.

Etiwanda's school staff, including special education teacher Vongkesone and general education teacher Ashley Porrino, believed the special day class setting would help Student academically and emotionally. His self-esteem would improve if he could

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be more independent in the classroom and work at the same level as his classmates. He would feel more successful, and therefore less anxious. He would still receive grade level curriculum, but at a slower pace and in a smaller classroom environment.

Parent and her advocate had concerns with placing Student in a special day class. They wanted Student to have access to grade level materials, which they worried would not happen in a special day class. They worried that he would not be negatively impacted by changing schools again.

When Parent observed the proposed mild to moderate special day class, it was an emotional roller coaster for her. She cried for half the observation; it was very hard for her. She watched a lesson where the teacher showed the students a card with a picture of fire and asked the students to write a sentence. It hit her hard when she saw all the students but one could write a sentence. Student would not have been able to write a sentence using the word "fire." She worried he would feel even worse about himself if he saw even the special day class students were above him. She was also upset the students were sitting on the floor for a lesson, which she did not perceive as age-appropriate for Student. She discussed this with Student at home, and he was adamant he did not want to be treated like a little kid. Finally, Parent believed if Student changed placement to a special day class he would be forgotten about and never have the opportunity to receive a different placement or better services. She was in his corner, working with the school to make sure his needs were met educationally.

With respect to the four *Rachel H.* factors, the evidence showed Student was not receiving any educational benefit from general education at the time of the April 1, May 13, and August 25, 2025 IEP team meetings. He could not meaningfully access

grade-level material, even with a one-on-one aide, and the support of assistive technology. His grades were poor. In spring 2025, he had a C in science, D's in reading, writing, and math, and F's in language, speaking and listening, and history.

Student received minimal educational benefit from his instruction in the resource specialist program. He was not progressing on his reading and writing goals. Vongkesone told the IEP team she was not seeing Student making progress in the resource specialist program, and he was not generalizing any skills they worked on into the general education environment. As such, the first prong of the *Rachel H.* test supported changing Student's placement to a more restrictive setting.

Student did not receive non-academic benefit from placement in a general education class with pull-out support in the resource specialist program. To the contrary, Student's behavior showed he was negatively impacted. Increasingly, he became frustrated and anxious in his general education academic settings. He would shut down, hit himself, kick furniture, and hit his reader pen. Although he participated with peers at lunch and recess, he did not do so within his classrooms. Vongkesone observed Student became very hard on himself when he could not answer a question, especially around peers, and became visibly upset. The second prong of the *Rachel H.* test supported changing Student's placement to a more restrictive setting.

With respect to the third prong of the *Rachel H.* test, Student required significant adult support, which meant the other students in the general education classroom had less access to the teacher.

The parties did not present any evidence as to the cost of placing Student in general education.

The preponderance of the evidence supported the appropriateness of a more restrictive placement for Student.

Student failed to meet his burden of proof that Etiwanda denied Student a FAPE in the April 1, 2025 IEP by failing to offer Student placement in the least restrictive environment. Student was not benefitting from the general education environment academically, socially, or emotionally. The evidence showed he was experiencing significant distress by being placed in an environment where his skills were far below the expectations.

ISSUE 3(d): DID ETIWANDA DENY STUDENT A FAPE IN THE APRIL 1, 2025 IEP BY FAILING TO OFFER EXTENDED SCHOOL YEAR FOR SUMMER 2025?

In his complaint, Student alleged he required extended school year services for summer 2025 because he was still at kindergarten levels in reading and math, and had not made progress for a year and a half. Student did not address this issue in his opening statement or closing brief. However, because Student did not explicitly withdraw the issue, it is not deemed abandoned.

Etiwanda contends it offered and made available to Student a FAPE in the least restrictive environment at all relevant times.

In fall 2024, Student returned to Etiwanda following a summer break. By October 29, 2024, Etiwanda had data showing Student regressed in reading and writing over the summer break and that he had not recouped the lost skills almost three months into the new school year. Based on the October 29, 2024 progress

report on his IEP goals, he had lost the ability to recognize two letters and one letter sound. By April 2025, Etiwanda should have been aware Student required extended school year services.

As such, Etiwanda denied Student a FAPE in the April 1, 2025 IEP by failing to offer extended school year for summer 2025.

ISSUE 4: DID ETIWANDA'S APRIL 1, 2025 IEP OFFER STUDENT A FAPE IN THE LEAST RESTRICTIVE ENVIRONMENT?

Etiwanda contends it offered and made available to Student a FAPE in the least restrictive environment at all relevant times, including in the April 1, 2025 IEP, as amended on August 25, 2025, and December 10, 2025.

Student did not address Etiwanda's issue in his opening statement or closing brief.

The IDEA requires school districts to offer eligible students a FAPE in the least restrictive environment. When a school district seeks to demonstrate that it offered a FAPE, the legal tribunal applies a two-part analysis. First, the school district must prove it complied with the procedures set forth in the IDEA. (*Rowley, supra*, 458 U.S. 176, 206-207.) Second, the school district must prove the IEP was designed to meet the child's unique needs, and provide educational benefit through an IEP reasonably calculated to enable her to make progress appropriate in light of his circumstances. (*Ibid; Andrew F., supra*, 580 U.S. 386, 402-403.)

NOTICE OF IEP TEAM MEETINGS AND PROCEDURAL SAFEGUARDS

To ensure parent participation in placement determinations, public agencies must provide parents with notice of meetings that will be held to decide placement. (34 C.F.R. § 300.501(b)(1).) The IEP team meeting must be scheduled at a mutually agreed upon time and place. (Ed. Code, § 56341.5, subd. (c).)

The December 10, 2025 IEP amendment was drafted without a meeting per the agreement of the parties.

Etiwanda failed to offer any evidence it provided Parents with a notice of the meetings on April 1, and August 25, 2025. However, Parent attended both meetings with her advocate and fully participated. As such, we can conclude Etiwanda provided sufficient notice of the meetings to Parent such as to allow Parents to participate.

A school district must provide parents with a copy of their procedural safeguards. State and federal law require districts to provide the parent of a child eligible for special education with a copy of a notice of procedural safeguards upon initial referral, and thereafter at least once a year, as part of any assessment plan, and at other designated times. (20 U.S.C. § 1415(d)(1); 34 C.F.R. § 300.504(a); Ed. Code, § 56321, subd. (a).) The notice must include a full explanation of all procedural safeguards and be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent. (20 U.S.C. § 1415(d)(2); 34 C.F.R. §§ 300.503(c)(1), 300.504.) Furthermore, at each IEP team meeting, the district must inform a parent of state and federal procedural safeguards. (Ed. Code, § 56500.1, subd. (b).)

Etiwanda emailed Parents a copy of the procedural safeguards prior to the meetings on April 1, and August 25, 2025. Etiwanda did not offer any evidence that the procedural safeguards were written in language understandable to the general public and provided in the native language of Parents. However, at the IEP team meetings, Parent told the team she did not have any questions about the procedural safeguards. As such, we can conclude the procedural safeguards were written in language Parents understood.

REQUIRED IEP TEAM PARTICIPANTS

A school district must ensure the IEP team includes all legally required participants. The IEP team must include:

- one or both of a student's parents;
- no less than one general education teacher if the student is, or may be, participating in the regular education environment;
- no less than one special education teacher or, if appropriate, a special education provider of the student;
- a representative of the district who is qualified to provide or supervise specially designed instruction, and is knowledgeable about the general education curriculum and the availability of district resources;
- an individual who can interpret the instructional implication of assessment results;

- at the discretion of the parents or district, any other individual who has knowledge or special expertise regarding the student, including related services personnel, as appropriate; and
- whenever appropriate, the student with exceptional needs.

(20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.321(a); Ed. Code, § 56341, subd. (b).)

The April 1, 2025, IEP team meeting included:

- Parent;
- General education teacher Porrino;
- Special education teacher Vongkesone;
- District representatives Sylvia Gonzalez, Kristen Ashton, and Arias-Aguilar;
- Assessor Dr. Turner;
- Others, including Parent's advocate, school psychologist Analisa Hernandez, and mental health counselor Galvan-Perry.

The August 25, 2025, IEP team meeting included:

- Parent;
- General education teacher Sasha Lopez;
- Special education teacher Vongkesone;

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- District representatives Gonzalez, Ashton, Arias-Aguilar, and Laura Gutierrez;
- Others, including Parent's advocate, and mental health counselor Galvan-Perry.

Etiwanda met its burden of proof the IEP team meetings included all legally required participants.

PARENT PARTICIPATION

The IDEA guarantees parents the right to participate in meetings with regard to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. (34 C.F.R. § 300.501(b).) The IDEA requires school districts to ensure the parents of disabled children are members of any group that makes decisions about their child's educational placement. (34 C.F.R. § 300.327; 34 C.F.R. § 300.501(c)(1) (2006).)

A parent has meaningfully participated in the development of an IEP when he or she is informed of the child's problems, attends the IEP meeting, expresses disagreement regarding the IEP team's conclusions, and requests revisions in the IEP. (*M.M. v. Lafayette School District* (Feb. 7. 20212) 2012 WL 398773, *affd. in part, revd. in part and remanded on other grounds, MM. v. Lafayette School District* (9th Cir. 2014) 767 F.3d 842, citing *N.L. v. Knox County Schools* (6th Cir. 2003) 315 F.3d 688, 693.)

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The notes attached to the IEP documents reflect the active participation of Parent in the IEP process. Parent and her advocate attended the meetings, asked questions, made numerous requests for revisions, and expressed disagreements. The team agreed to some changes proposed by Parent and her advocate, such as additional accommodations to support him in math. The preponderance of the evidence showed Parent meaningfully participated in the April 1, 2025 IEP.

THE IEP PROCESS AND DOCUMENT

Students eligible for IEPs are entitled to special education and related services to address the child's unique needs resulting from the disability. (34 C.F.R. § 300.39(b)(3).) The IDEA requires States to provide a FAPE to all eligible students. (*Endrew F., supra*, 580 U.S. 386, 390.) States are required to provide instruction calculated to "confer some educational benefit" by offering an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Ibid.*)

The educational benefit to be provided to a student requiring special education is not limited to addressing the student's academic needs, but also social and emotional needs that affect academic progress, school behavior, and socialization. (*County of San Diego v. California Special Education Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467.)

A focus on the particular child is at the core of the IDEA. (*Endrew F., supra*, 580 U.S. 386, 400.) The IEP team addresses a student's unique needs by assessing the child in all areas of suspected disability, documenting the needs in the present levels of performance sections of the IEP, and offering the child appropriate goals, services, accommodations, and special factors to meet the child's needs.

“In determining what it means to ‘meet the unique needs’ of a child with a disability, the provisions governing the IEP development process are a natural source of guidance: It is through the IEP that ‘[t]he free appropriate public education required by the Act is tailored to the unique needs of’ a particular child.” (*Id.*)

A school district must ensure that an IEP document contains all components required by the IDEA and California special education law. The IDEA does not require the IEP document to be in any particular format as long as all the contents requirements are included. (34 C.F.R. § 300.320.)

PRESENT LEVELS OF PERFORMANCE

An IEP must include a student’s present levels of performance. The present levels of academic achievement and functional performance must include how the child’s disability affects the child’s involvement and progress in the general education curriculum. (20 U.S.C. § 1414(d)(1)(A)(i)(I); 34 C.F.R. § 300.320(a)(1); Ed. Code, § 56345, subd. (a)(1).)

In developing the IEP, the IEP team must consider:

- the strengths of the child;
- the concerns of the parents for enhancing their child’s education;
- information about the child provided by or to the parents;
- the results of the most recent assessments;

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- the academic, developmental, and functional needs of the child;
- and any lack of expected progress toward the annual goals. (20 U.S.C. § 1414(d)(3)(A), (d)(4)(A)(ii); 34 C.F.R. § 300.324(a), (b)(1)(ii); Ed. Code, § 56341.1, subds. (a), (d).)

Etiwanda considered the independent educational evaluation by Dr. Turner, assessment data from i-Ready testing, progress reports on IEP goals, and information from teachers, Parent, and Parent's advocate, in developing the present levels of performance section of the April 1, 2025 IEP.

Student's strengths were his kindness and his good relationships with his siblings. He enjoyed riding his bike, running, finding bugs, computer games, and karate. Parent's primary concerns were his lack of progress and whether he was receiving appropriate interventions.

The IEP documented Students' present levels of performance in academics. In reading he knew four out of 32 letter sounds, and could expressively identify 13 out of 26 lower case letters and 12 out of 26 upper case letters. In writing, he could write his first name. In math he could count from one to 120, identify four shapes, and complete addition, subtraction, and some multiplication problems.

The IEP also documented Student's present levels of performance in nonacademic areas. His communication, motor, and adaptive skills were age appropriate. In the area of health, he did not like wearing his glasses. In vocational skills, he required one-on-one adult assistance to complete tasks. Behaviorally, he was very aware of his academic

challenges in the classroom. He became anxious and disengaged. He had difficulty managing his emotions and would engage in physical aggression toward himself, objects, and furniture.

Etiwanda met its burden of proof that the April 1, 2025 IEP included comprehensive and accurate present levels of academic achievement and functional performance for Student.

ANNUAL GOALS

As discussed in Issue 3(a), Etiwanda offer Student appropriate annual IEP goals in all areas of needs, including

- reading,
- writing,
- math,
- behavior, and
- counseling.

Special education teacher Vongkesone and mental health counselor Galvan-Perry persuasively testified the goals were measurable, and that Student could reasonably attain them within 12 months. Etiwanda met its burden of proof it offered Student appropriate annual goals in all areas of need in the April 1, 2025 IEP.

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PLACEMENT

Etiwanda met its burden of proof it offered Student an appropriate placement in the least restrictive environment in the April 1, 2025 IEP as discussed in Issue 3(c), with the exception of extended school years services summer 2025, as discussed in Issue 3(d).

However, Etiwanda did not comply with all procedural requirements for documenting Student's placement and services in the IEP.

FORMAL, SPECIFIC, WRITTEN OFFER OF PLACEMENT

A school district must make a formal, written offer of placement and services in the IEP document. (*Union v. Smith* (9th Cir. 1994) 15 F.3d 1519, 1526.) Additionally, an IEP must include the projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications. (34 C.F.R. § 300.320(a)(7).)

Etiwanda's offer of placement and services in the April 1, 2025 IEP was muddled and confusing. Based on the testimony at the due process hearing, Etiwanda intended to continue offering Student the same placement and services through the end of the 2024-2025 school year, with a change of placement to the mild to moderate special day class for the 2025-2026 school year. However, that is not reflected in the IEP document. Etiwanda did not offer Student any specialized academic instruction, mental health counseling, or one-on-one aide support from April 20, 2025, through the end of the 2024-2025 regular school year. At the due process hearing, mental health counselor Galvan-Perry opined this was a mistake. Etiwanda did not appear to realize the mistakes on the IEP document until it was scrutinized during the course of testimony in the due process hearing, and therefore had not corrected the document.

Furthermore, because Parents did not consent to the April 1, 2025 IEP, Student continued attending general education for fifth grade. Faced with this reality, Etiwanda amended the IEP to add one-on-one aide services for 1,270 minutes per week to support him with academic tasks during whole group instruction in the general education classroom. However, this was inconsistent with the offer of placement in the IEP document, which offered him specialized academic instruction in a mild to moderate special day class for all academic tasks and instruction.

Etiwanda failed to meet its burden of proof it made a coherent, formal, written offer of placement and services in the IEP document. This violation alone is sufficient to show the April 1, 2025 IEP is not compliant with the requirement of the IDEA, and therefore cannot be implemented without Parents' consent.

APPROPRIATE SERVICES, SUPPORTS, AND ACCOMMODATIONS

Related services are supportive services that a disabled student requires to benefit from special education. (34 C.F.R. § 300.34.) Related services include developmental, corrective, and supportive services. (*Ibid.*)

As noted, Etiwanda failed to offer Student any related services, including specialized academic instruction, counseling, and one-to-one aide service, from April 20, 2025, through the end of the 2024-2025 regular school year.

Etiwanda failed to meet its burden of proof that the April 1, 2025 IEP included appropriate related services in all areas of need.

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SPECIAL FACTORS AND TEST ACCOMMODATIONS

The IEP must include a consideration of special factors, including

- behavioral supports,
- language support for students with limited English proficiency,
- supports for visually impaired, blind, hearing impaired and deaf students, and
- assistive technology devices and services. (34 C.F.R. § 300.324(a)(2).)

When a child's behaviors impede the child's learning or that of others, the IDEA requires that the IEP team consider the use of positive behavioral interventions and supports and other strategies to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i).)

The April 1, 2025, IEP included a consideration of special factors. The IEP documented Student required assistive technology, including

- a touchscreen Chromebook,
- a wireless mouse,
- ear buds,
- text to speech,
- speech to text, and
- a Reader Pen.

Student's behavior impeded his learning. He required verbal prompts, repeated directions, encouragement and praise, incentives, and a behavior goal as part of his IEP. He did not have limited English proficiency or visual or hearing impairments.

Each IEP must contain a statement of any individual appropriate accommodations that are necessary to measure the child's academic achievement and functional performance on statewide and districtwide assessments. (34 C.F.R. § 300.320.)

The April 1, 2025 IEP included testing accommodations for Student's participation in the California Assessment of Student Performance and Progress, with accommodations for testing in English language arts, math, and science. Parent told the IEP team she would continue to opt Student out of statewide testing. Nonetheless, Etiwanda complied with the procedural requirements for the consideration of accommodations for statewide assessments for Student.

Etiwanda met its burden of proof it complied with legal requirements with respect to the special factors and testing accommodations in the April 1, 2025 IEP.

EMERGENCY CONDITIONS

IEPs must include a description of the means by which the IEP will be provided under emergency conditions, in which instruction or services, or both, cannot be provided to the pupil either at the school or in person for more than 10 school days. (Ed. Code, § 56345, subd. (a)(9).)

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The April 1, 2025 IEP included a page entitled “emergency circumstances program” which sufficiently described the services and instruction Student would receive under emergency conditions. Etiwanda met its burden of proof it complied with emergency conditions requirement for Student’s IEP.

Overall, Etiwanda made several errors and omissions in the April 1, 2025 IEP, such that it may not implement the IEP without Parents’ consent. It failed to offer Student extended school years services for summer 2025, which he required. Etiwanda failed to offer Student appropriate supports and services in reading and writing. It failed to make a coherent formal, written offer of placement and services in the IEP document.

As such, because it did not comply with all the substantive and procedural requirements under the IDEA, Etiwanda failed to meet its burden of proof April 1, 2025 IEP offer Student a FAPE in the least restrictive environment.

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):

Etiwanda did not deny Student a FAPE in the January 17, 2024 IEP by failing to develop measurable goals for letter and sound identification, math foundational facts and fluency, and independent sentence writing.

Etiwanda prevailed on Issue 1, subsection (a).

ISSUE 1, SUBSECTION (b):

Etiwanda did not deny Student a FAPE in the January 17, 2024 IEP by failing to offer appropriate support and services in reading, writing, and math.

Etiwanda prevailed on Issue 1, subsection (b).

ISSUE 1, SUBSECTION (c):

Etiwanda did not deny Student a FAPE in the January 17, 2024 IEP by failing to offer placement in the least restrictive environment.

Etiwanda prevailed on Issue 1, subsection (c).

ISSUE 2, SUBSECTION (a):

Etiwanda did not deny Student a FAPE in the April 19, 2024 IEP by failing to develop measurable goals for

- turning in assignments on time,
- completing assignments,
- use of a multiplication chart,
- multiplication,
- division,
- writing last name,
- using assistive technology independently, and
- learning to write numbers.

Etiwanda denied Student a FAPE in the April 19, 2024 IEP by failing to develop measurable goals for

- work refusal,
- rote counting beyond 37,
- math graph reading,
- learning shapes,
- learning the alphabet,
- learning letter sounds,
- sight words, and
- learning to write letters.

Student substantially prevailed on Issue 2, subsection (a).

ISSUE 2, SUBSECTION (b):

Etiwanda did not deny Student a FAPE in the April 19, 2024 IEP by failing to offer appropriate services and supports in math.

Etiwanda denied Student a FAPE in the April 19, 2024 IEP by failing to offer appropriate services and supports in reading and writing at the February 11, 2025, meeting.

Student substantially prevailed on Issue 2, subsection (b).

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ISSUE 2, SUBSECTION (c):

Etiwanda did not deny Student a FAPE in the April 19, 2024 IEP by failing to offer him extended school year services for summer 2024.

Etiwanda prevailed on Issue 2, subsection (c).

ISSUE 3, SUBSECTION (a):

Etiwanda did not deny Student a FAPE in the April 1, 2025 IEP by failing to develop measurable goals for

- executive functioning,
- peer academic engagement,
- work production and task completion,
- handwriting,
- typing,
- math facts,
- math fluency, and
- increasing academic independence.

Etiwanda prevailed on Issue 3, subsection (a).

ISSUE 3, SUBSECTION (b):

Etiwanda did not deny Student a FAPE in the IEP developed on April 1, 2025 IEP by failing to offer appropriate services and support in math.

Etiwanda denied Student a FAPE in the April 1, 2025 IEP by failing to offer appropriate services and support in reading and writing.

Student substantially prevailed on Issue 3, subsection (b).

ISSUE 3, SUBSECTION (c):

Etiwanda did not deny Student a FAPE in the IEP developed on April 1, 2025 IEP by failing to offer placement in the least restrictive environment.

Etiwanda prevailed on Issue 3, subsection (c).

ISSUE 3, SUBSECTION (d):

Etiwanda denied Student a FAPE in the April 1, 2025 IEP by failing to offer extended school year for summer 2025.

Student prevailed on Issue 3, subsection (d).

ISSUE 4:

Etiwanda's April 1, 2025 IEP did not offer Student a FAPE in the least restrictive environment because it did not comply with all the substantive and procedural requirements under the IDEA.

Student prevailed on Issue 4.

REMEDIES

Under federal and state law, courts have broad equitable powers to remedy the failure of a school district to provide FAPE to a disabled child. (20 U.S.C. § 1415(i)(1)(C)(iii);

Ed. Code, § 56505, subd. (g); see *School Committee of the Town of Burlington, Massachusetts v. Dept. of Education* (1985) 471 U.S. 359, 369 [105 S.Ct. 1996, 85 L.Ed.2d 385] (*Burlington*.) This broad equitable authority extends to an Administrative Law Judge who hears and decides a special education administrative due process matter. (*Forest Grove School Dist. v. T.A.* (2009) 557 U.S. 230, 244, fn. 11 [129 S.Ct. 2484, 174 L.Ed.2d 168].)

In remedying a FAPE denial, the student is entitled to relief that is appropriate in light of the purposes of the IDEA. (20 U.S.C. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3) (2006).) The purpose of the IDEA is to provide students with disabilities a FAPE which emphasizes special education and related services to meet their unique needs. (*Burlington, supra*, 471 U.S. 359, 374.) Appropriate relief means relief designed to ensure that the student is appropriately educated within the meaning of the IDEA. (*Student W. v. Puyallup School Dist.* (9th Cir. 1994) 31 F.3d 1489, 1497 (*Puyallup*.) The award must be fact-specific and be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place. (*Reid ex rel. Reid v. District of Columbia* (D.C. Cir. 2005) 401 F.3d 516, 524.)

A school district also may be ordered to provide compensatory education or additional services to a student who has been denied a FAPE. (*Park, supra*, 464 F.3d at p. 1033.) Compensatory education is a prospective award of educational services designed to catch-up the student to where he should have been absent the denial of a FAPE. (*Brennan v. Regional School Dist. No. 1* (D.Conn. 2008) 531 F.Supp.2d 245, 265; *Orange Unified School Dist. v. C.K.* (C.D.Cal. June 4, 2012, No. SACV 11-1253 JVS(MLGx)) 2012 WL 2478389, *12.) An award of compensatory education need not provide a

day-for-day compensation. (*Puyallup, supra*, 31 F.3d 1489, 1496-1497.) The conduct of both parties must be reviewed and considered to determine whether equitable relief is appropriate. (*Id.* at p. 1496.)

Student is entitled to compensatory education for Etiwanda's failure to offer him a FAPE from April 19, 2024, through September 22, 2025, which led him to make minimal progress in reading and writing. Specifically, Etiwanda

- failed to offer goals in all areas of need in the April 2024 IEP,
- failed to offer appropriate services and supports for reading and writing in the April 19, 2024 and April 1, 2025 IEPs, and
- failed to offer extended school year services for summer 2025.

Student was denied a FAPE for five weeks during the 2023-2024 school year, 36 weeks during the 2024-2025 school year, four weeks for extended school year 2025, and seven weeks during the 2025-2026 school year, totaling 52 weeks.

Student offered testimony from two expert witnesses, Julie Albanese and Dr. Turner, in support of his request for compensatory education. Albanese is the CEO of Fit Learning Inland Empire. She holds a bachelor's degree in psychology, a master's degree in behavior analysis, and a doctorate degree in psychology. She is certified as a board-certified behavior analyst. Fit Learning Inland Empire is certified as a nonpublic agency in behavior intervention service by the State of California. It also provides academic intervention services to children, using curriculum and techniques specially devised by the founders of Fit Learning. Student attended Fit Learning Inland Empire, after school, from March 25, 2024, through May 29, 2024. At the end of those services,

Albanese recommended 400 more hours of services. However, at the due process hearing, Albanese said she could not make a recommendation for compensatory education because she would need to assess Student again.

Student requires an intensive reading intervention program. Dr. Turner opined that Student might be able to learn to read with two years of intensive reading intervention services. He suggested Student needed 45 minutes per day, five days per week, of appropriate dyslexia-focused reading intervention services as compensatory education. Etiwanda believed Student needed 30 to 60 minutes per day of reading intervention. Student is therefore awarded 60 minutes per day of compensatory education, five days per week, for the 52 weeks he was denied a FAPE. This amounts to an award of 260 hours of compensatory education.

Student presented evidence that reading intervention programs in his area cost approximately \$150 per hour. Student's expert, Dr. Turner, also suggested that Student might need to try several programs until the family identified an effective program for him, given the severity of his dyslexia. Some of the programs that might be effective for Student are not certified by the State of California as nonpublic agencies in reading intervention, such as Lindamood Bell. To benefit from the compensatory education, the family needs some level of flexibility. Accordingly, the hours of compensatory education awarded to Student are to be converted into an education fund allowing for a sum of money to be used for compensatory education. Therefore, Student is awarded a compensatory education fund of \$39,000 to obtain reading intervention services, to be used under the conditions and limitations set forth in the Order below.

ORDER

1. Within 30 days of the issuance of this Decision, Etiwanda shall establish and maintain a compensatory education fund for Student's use in the amount of \$39,000.
2. Parents shall have until May 21, 2028, to access the compensatory education fund to obtain reading intervention services for Student. This fund shall not be used for the purchase of computers, electronic devices, phones, or toys.
3. Services shall be provided by certified nonpublic agencies or by providers with the requisite license, credential, or certificate in the service delivered, for Parents to access the compensatory education fund.
4. Parents may access the compensatory education fund by seeking reimbursement from Etiwanda or by requesting that Etiwanda directly pay the provider. Parents shall provide Etiwanda with invoices with the date, type, and cost of service, and proof of payment by Parents in the form of cancelled checks, bank statements, or credit card statements before receiving reimbursement. Etiwanda shall reimburse Parents within 60 days of receiving proof of payment.
5. If Parents elect for Etiwanda to directly contract with a nonpublic agency, Parents shall provide Etiwanda with written notice requesting Etiwanda contract with the selected provider and provide Etiwanda with the provider's contact information. Etiwanda

shall either contract with the nonpublic agency within 60 days or notify Parents in writing if Etiwanda is unable to contract with the nonpublic agency. If the selected provider does not wish to contract with Etiwanda, Parents may identify an alternative provider.

6. All of the parties' other requests for relief are denied.

RIGHT TO APPEAL THIS DECISION

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

Cararea Lucier

Administrative Law Judge

Office of Administrative Hearings