

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

CASE NO. 2026031036

EXPEDITED DECISION

JUNE 24, 2026

On March 19, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming Riverside Unified School District, called Riverside. The complaint contained expedited and non-expedited claims. OAH set the expedited and non-expedited issues for separate hearings. This Decision addresses only the expedited claims.

Administrative Law Judge Alexa Hohensee heard the expedited issues by videoconference on June 9, 10, and 11, 2026. The Administrative Law Judge is called the ALJ.

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Parents represented Student, with the assistance of advocate Steven Figueroa. Parents attended all hearing days on Student's behalf. Attorney Jack Clarke represented Riverside. Cyndi Hartshorn, Riverside's Special Education and Special Education Local Plan Area Director, attended all hearing days on Riverside's behalf. OAH provided a Spanish language interpreter on all days.

On June 11, 2026, the last day of hearing, the record was closed, and the matter was submitted for decision. The ALJ allowed the parties to file closing arguments by June 18, 2026, but did not continue the matter. Student and Riverside filed closing arguments.

EXPEDITED ISSUE

Should Riverside have completed assessments or convened an individualized education program, called IEP, team meeting to address Student's conduct for which he was disciplined prior to initiating a disciplinary change of placement?

This Decision does not reference or decide Student's non-expedited issues. Factual findings in this Decision are not binding on the ALJ in the non-expedited Decision, and may be changed or modified based on additional evidence admitted in the non-expedited hearing.

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JURISDICTION

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

- all children with disabilities have available to them a free appropriate public education, called 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).)

Title 20 United States Code section 1415, subdivision (k) and title 34 Code of Federal Regulations, part 300.530, et seq. (2006), govern the discipline of special education students. (Ed. Code, § 48915.5.) A student receiving special education services may be suspended or expelled from school as provided by federal law. (20 U.S.C. § 1412(a)(1)(A); Ed. Code, § 48915.5, subd. (a).)

The parent of a special education student may appeal a school district's disciplinary change of placement by requesting an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) & (c).) 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).) Here, Student filed the complaint

and has the burden of proof. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

This Decision does not cite to the administrative record because it was not available before the issuance of this Decision and OAH policy is that decisions do not include citations to the record. OAH decisions are written in an accessible style, font, and format adopted by OAH in compliance with state and federal accessibility laws.

Student was 18 years old and at the time of hearing had recently graduated with a regular high school diploma. Both parties confirmed an expulsion hearing against Student was pending despite Student's graduation. Student resided with his father within Riverside's geographic boundaries at all relevant times. From approximately 2019 through November 13, 2024, Student was eligible for special education under the category of other health impairment due to attention and executive functioning deficits. Riverside exited Student from special education on November 13, 2024, with Parents' consent.

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ISSUE: SHOULD RIVERSIDE HAVE COMPLETED ASSESSMENTS OR CONVENED AN IEP TEAM MEETING TO ADDRESS STUDENT'S CONDUCT FOR WHICH HE WAS DISCIPLINED PRIOR TO INITIATING A DISCIPLINARY CHANGE OF PLACEMENT?

Student contends the first incident for which he faces expulsion occurred when he was a special education student and the conduct that gave rise to the incident was a manifestation of his disability. Therefore, he asserts he was entitled to the disciplinary protections of the IDEA prohibiting a child with a disability from being disciplined for conduct that was a manifestation of their disability.

Student contends the second incident, which occurred after he was exited from special education, also involved conduct that was a manifestation of his disability. He contends Riverside had sufficient knowledge that he was still a child with a disability in January 2025, which entitled Student to IDEA disciplinary protections. Alternatively, Student contends Riverside should have conducted assessments and held IEP team meetings to make Student eligible for special education again prior to initiating expulsion proceedings.

Riverside contends Student had been exited from special education at the time it initiated expulsion proceedings in February 2026, and therefore, Student could be disciplined in the same manner as a non-disabled student. Riverside also contends that after Student was exited from special education and prior to initiating expulsion proceedings, it conducted multiple assessments of Student at Parent's request, and held multiple IEP team meetings, at which the IEP teams continued to find Student ineligible for special education and related services.

The educational program developed for a child with a disability is written into a document called an IEP that is regularly reviewed and revised. (20 U.S.C. § 1401(14); 34 C.F.R. § 300.22; Ed. Code, § 56032.) The IEP is created by a child's parents, representatives of the school district, and other persons knowledgeable about the child and their disability, called an IEP team. (34 C.F.R. § 300.321; Ed. Code, § 56341.)

ISSUE CLARIFICATION

This due process hearing was brought on behalf of Student by his self-represented Parents, who are not attorneys. The expedited issue was stated as whether Riverside should have completed assessments or convened an IEP team meeting to address Student's alleged misconduct prior to initiating expulsion proceedings. Riverside's duty to assess or hold IEP team meetings prior to expulsion would be triggered only in two circumstances: if Riverside determined Student's conduct was a manifestation of his disability while Student was eligible for an IEP, or if it had reason to know that Student was eligible for special education and accompanying disciplinary protections at the time of the alleged misconduct when Student did not have an IEP.

Accordingly, this Decision will analyze whether Riverside was required to hold a manifestation determination review regarding Student's alleged misconduct while he was a special education student, and whether Riverside had reason to know Student was eligible for special education when subsequent alleged misconduct occurred after Student was exited from special education.

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LAW ON THE DISCIPLINE OF STUDENTS WITH DISABILITIES

If a school district proposes disciplinary measures for a violation of a student code of conduct that will result in a change of placement for a child with a disability, it must, within 10 days, conduct a manifestation determination review. (34 C.F.R. § 300.530(e).) A manifestation determination review is a review of a child's misconduct to determine whether that conduct was a manifestation of the child's disability. (*Ibid.*) The conduct must be found to be a manifestation of the child's disability if:

- The conduct in question was caused by or had a direct and substantial relationship to the child's disability; or
- The conduct was the direct result of the district's failure to implement the IEP.

(20 U.S.C. § 1415(k)(1)(E)(i) & (ii); 34 C.F.R. § 300.530(e).)

If the manifestation review team determines the conduct was a manifestation of the child's disability, the school district must retain the student in the same placement, or return the student to the placement from which the student was removed, unless the parent and the school district agree otherwise. (20 U.S.C. § 1415(k)(1)(F)(iii).) The school district must also convene an IEP team meeting to address the behavior with appropriate behavioral interventions. (20 U.S.C. § 1415(k)(1)(F)(i) & (ii).) A school district is required to conduct a functional behavioral assessment, if it has not already conducted such an assessment prior to the determination. (20 U.S.C. § 1415(k)(1)(F)(i).)

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The IDEA allows the parents of a child who has not been determined to be eligible for special education and related services to assert any available IDEA protections in circumstances where the district is deemed to have knowledge that a child is a child with a disability. (34 C.F.R. § 300.534(a).)

A district is deemed to have knowledge that a child is a child with a disability, called a basis of knowledge, if, before the behavior that precipitated the disciplinary action occurred:

- The parent expressed concern in writing to district supervisory or administrative personnel, or to one of the child's teachers, that the child needed special education and related services,
- The parent requested an evaluation of the child, or
- The child's teacher, or other district personnel, expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other district supervisory personnel.

(20 U.S.C. § 1415(5)(B)(i)-(iii); 34 C.F.R. § 300.534(b)(1)-(3).)

If a parent requests an evaluation of a child during the time period in which the child is subject to disciplinary measures, the evaluation must be conducted in an expedited manner. (20 U.S.C. § 1415(k)(D)(ii).)

If the parents of a child with a disability, the school district, and the relevant members of the child's IEP team cannot reach consensus or agreement on whether the child's behavior was or was not a manifestation of the disability, the school district must make the determination and provide the parent with prior written notice pursuant to 34

Code of Federal Regulations section 300.503. (*Questions and Answers on Discipline Procedures*, U.S. Dept. of Educ., Office of Special Education and Rehabilitative Services (OSERS) (June 1, 2009).)

If it is determined that conduct is not a manifestation of the student's disability, regular school disciplinary procedures may be used to address the incident in the same way as they would be applied to non-disabled students. (20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c).)

ELIGIBILITY REQUIREMENTS FOR SPECIAL EDUCATION

In this case, there is an important distinction between a child with a medically diagnosed disability and a "child with a disability" as defined in the IDEA and California law.

The IDEA defines a "child with a disability" as a child with certain disabilities delineated by statute, who, because of that disability, need special education and related services. (20 U.S.C. § 1401(2)(A); 34 C.F.R. § 300.8.) California law calls a child with a disability an individual with exceptional needs (Ed. Code, § 56026), and these terms are interchangeable. This Decision will use the term child with a disability.

California identifies 13 categories under which a student may demonstrate a degree of impairment requiring special education. (Ed. Code, § 56026, subd. (d); Cal. Code Regs., tit. 5, § 3030, subds. (a), (b)(1)-(13).)

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Eligibility for special education and related services is two-pronged. A student is eligible for special education and related services if the student has a qualifying disability and, as a result of that disability, needs special education and related services to access their education. (20 U.S.C. § 1401(3)(A)(ii); 34 C.F.R. § 300.8(a)(1); Ed. Code, § 56026, subds. (a) and (b); Cal Code Regs., tit. 5, § 3030, subd. (a).)

A child may have a qualifying disability, yet not be found eligible for special education because the student's needs can be met with modification of the general education classroom. (Ed. Code, §§ 56026, subd. (b), 56337; *Hood v. Encinitas Union School District* (9th Cir. 2007) 486 F.3d 1099, 1107-1108, 1110 (*Hood*).) In other words, it is not enough that a student has a qualifying disability – they must also need special education and related services. (*Ibid.*)

STUDENT'S EXIT FROM SPECIAL EDUCATION

Student was found eligible for special education in 2019, under the eligibility category other health impairment. He was a child with a disability under that eligibility category because he exhibited characteristics of chronic attention deficit hyperactivity disorder, or ADHD, and associated executive functioning deficits. Student's attention and executive functioning deficits resulted in limited alertness with respect to the educational environment and affected his educational performance.

At the beginning of the 2024-2025 school year, under a March 6, 2024 IEP, Student attended eleventh grade in general education classes and was on track to graduate with a regular high school diploma. He received limited special education

services of 20 minutes per month of specialized academic instruction consultation from a special education teacher. He also received a number of accommodations to address his attention and executive functioning deficits, including, for example:

- Extended time on tests up to one extra period,
- Seat away from distractions or noise whenever possible,
- On-task reminders,
- Praise for task completion and following directions,
- Set of textbooks for home use, and
- Late assignments accepted up to three school days for full credit.

During the first semester of the 2024-2025 school year, Student was earning grades of As and Bs, and had an impressive 3.73 grade point average on a 4.0 scale. Student loved music, took multiple music classes, and played in the school band and other school-related musical instrument ensembles. At hearing, he was described by multiple teachers and administrators as very social and well-liked by adults and peers.

On November 13, 2024, Riverside convened an IEP team meeting, including Student and Parents, for a three-year review of Student's educational program. Riverside's assessors presented results from assessments completed in October and November 2024, which showed Student to have high average to above average cognitive ability, and academic achievement scores in the average and high average range except for a low average math score. Student had made good progress on a behavior goal to timely complete classwork and turn in assignments, and he earned

good grades. The special education teacher providing 20 minutes per month of specialized academic instruction consultation reported Student no longer needed that support.

The November 13, 2024 IEP team determined Student was no longer a student with a disability because he was accessing the curriculum with accommodations, and did not need special education and related services. The IEP team recommended exiting Student from special education. Parent agreed, and that same day consented to Student's exit from special education. Student has not received special education services since November 13, 2024.

Riverside's November 13, 2024 IEP team members referred Student to Riverside's 504 coordinator to schedule a 504 plan meeting. A 504 plan is developed by a school district pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which prohibits discrimination on the basis of disability. (*A.J.T. v. Osseo Area Schools, Independent School Dist. No. 279* (2025) 605 U.S. 335, 339.) Schools formulate 504 plans to aid a student's access to the general education curriculum, generally by offering necessary accommodations. (*McIntyre v. Eugene School District 4J* (9th Cir. 2020) 976 F.3d 902, 911.) The 504 plan team would review whether Student, despite no longer requiring special education, still required accommodations for his attention and executive function deficits, such as additional time to complete assignments and a quiet environment for taking tests.

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TWO INCIDENTS OF MISCONDUCT

From August through October 2024, Student had a girlfriend, called Student A. Less than two weeks after Student was exited from special education, on November 22, 2024, Student A filed a sexual harassment complaint against Student. She accused Student of not respecting her boundaries or protests and engaging in nonconsensual sexual activity from August through October 2024. The complaint was investigated over the remaining 2024-2025 school year and the first half of the 2025-2026 school year. During the investigation, another student, Student B, informed Riverside that Student had sexually assaulted her on or about January 24, 2025, and then bragged to classmates that he had sex with her. There was no evidence Student B filed a sexual harassment or other complaint with Riverside.

After Student A's complaint was filed, Student began missing school. He often stayed up late practicing music and doing homework, and the next morning Parent would allow Student to stay home and get some rest. Student told his former specialized academic instruction teacher, who still saw him on campus during the 2024-2025 school year, that he and Student A shared the same friend group, and those friends no longer wanted to associate with him. More than 30 days of absences and missed lessons began to affect Student's grades.

A final investigative report on Student A's accusations was submitted to Riverside during the 2025-2026 school year, on January 23, 2026. The report found Student had engaged in conduct in violation of Riverside's expectations for students, prohibitions against a hostile environment and sexual harassment, and California laws defining sexual battery. The report recommended suspension and expulsion.

Riverside gave Parents notice on February 20, 2026, that Student was suspended for five days, and that the school principal recommended expulsion. Parents were also informed there would be a pre-expulsion review conference on February 27, 2026, and no manifestation determination review would be scheduled. In response, Parents filed for this expedited due process hearing requiring Riverside to afford Student the disciplinary protections of a student with a disability.

STUDENT WAS A STUDENT WITH A DISABILITY WHEN THE FIRST INCIDENT OCCURRED AND ENTITLED TO A MANIFESTATION DETERMINATION REVIEW

Student had an IEP, and was a student with a disability as defined by the IDEA, during August through October 2024, when the alleged conduct involving Student A occurred. He was entitled to all IDEA disciplinary protections for incidents that occurred prior to November 13, 2024, when he was exited from special education. A school district may not discipline a student for a manifestation of his disability. (*Jay F. v. William S. Hart Union High School Dist.* (C.D.Cal. 2017) 2017 WL 6549911, at p. *5.; aff'd by *Jay F. v. William S. Hart Union High School Dist.* (9th Cir. 2019) 772 Fed. Appx. 578.) Instead, within 10 school days of the decision to expel a student with a disability, the school district must convene a manifestation determination review meeting. (34 C.F.R. § 300.530(e).)

Here, Riverside was required to convene a manifestation determination review meeting within 10 school days of the decision to expel Student for conduct occurring prior to November 13, 2024. Riverside could not expel Student for pre-November 13, 2024 misconduct without a manifestation determination review team determining whether that conduct was caused by, or had a direct and substantial relationship to

Student's disability, or was the direct result of Riverside's failure to implement Student's IEP. If either was the case, Riverside was required to find the first incident a manifestation of Student's disability and was prohibited from removing Student from his placement for that conduct.

A determination that Student's conduct was a manifestation of his disability would also require Riverside to conduct a functional behavioral assessment and hold an IEP team meeting to develop a behavioral intervention plan if it had not done so, or to review the behavioral intervention plan if developed and modify it as necessary to address the behavior. (See 20 U.S.C. § 1415(k)(1)(F)(i) & (ii).)

Riverside cannot circumvent the IDEA's important protection prohibiting a child with a disability from being disciplined for a manifestation of that disability. Riverside's argument that, after Student had overcome the impact of his disabilities and exited special education, he could be expelled for past conduct that may have been a manifestation of his disability, is unreasonable and unpersuasive. Such a circumvention of this important right of disabled students violates the language and the spirit of the IDEA.

Riverside was required to hold a manifestation determination review regarding Student's alleged misconduct from August through October 2024, and to assess Student and hold an IEP team meeting to consider behavioral interventions if the conduct was determined to be a manifestation of his disability. Riverside may not expel Student for conduct from August through October 2024, in the same manner as a non-disabled student without a manifestation determination review and a determination that the conduct was not a manifestation of Student's disability.

STUDENT WAS NOT ENTITLED TO A MANIFESTATION DETERMINATION REVIEW AS TO THE SECOND INCIDENT

Student was not a child with a disability as defined in the IDEA at the time of the alleged January 24, 2025 incident. Accordingly, Riverside could expel Student without a manifestation determination review, unless Riverside had a basis of knowledge that Student was a child with a disability in January 2025.

ADDITIONAL EVENTS AFTER STUDENT'S EXIT FROM SPECIAL EDUCATION AND MAY 1, 2025 IEP

After Student was exited from special education, Riverside's 504 coordinator repeatedly attempted to schedule 504 plan meetings so that Student would receive any accommodations he needed, but Parent declined.

On February 4, 2025, Parent wrote to Riverside to rescind consent to Student's exit from special education. Alternatively, Parent requested Student be assessed for special education eligibility because Student was experiencing new symptoms of anxiety and depression when trying to meet assignment deadlines without accommodations.

Riverside responded in writing to Parents on February 13, 2025, explaining that once Student was exited from special education, he could not be made eligible again without an IEP team finding him eligible. Riverside sent Parent an assessment plan proposing to comprehensively assess Student for eligibility in all 13 special education eligibility categories. Parent signed and returned the assessment plan on March 6, 2025.

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In March and April 2025, Riverside conducted assessments in:

- Academic achievement,
- Social, adaptive, behavioral, and emotional functioning,
- Processing abilities,
- Perceptual and motor development,
- Communication development,
- Cognitive development,
- Health and childhood development,
- Vocational ability,
- Orientation and mobility,
- Need for assistive technology, and
- Need for educationally related mental health services.

Riverside convened an IEP team meeting on May 1, 2025, attended by

- Parents,
- Student's advocate,
- the assessors,
- Student's teachers, and
- school administrators.

According to the IEP notes and testifying IEP team members, the assessors presented assessment results which showed Student had average to high average cognitive ability, and scored in the average to high average range in academic achievement, with slightly below average scores in spelling and math, which were timed tests.

The speech and language assessor reported Student's voice, articulation, language and fluency skills were all age appropriate. Student's scores in figurative language, sentence expression, and listening comprehension were average or above average, with relative weakness in executive functioning skills, which were low average. Student's pragmatic, or social language, skills were age appropriate.

Student's teachers reported that he performed well in the classroom when he attended, but his grades were impacted by missed lessons and incomplete homework. Student's math teacher explained he had an F in math due to missing homework and a failed test, but could pass the class by turning the homework in late and retaking the test.

Riverside's school psychologist had conducted an educationally related mental health services evaluation over March and April 2025, specifically looking at whether Student's reported anxiety and depression were interfering with Student's access to his education. The school psychologist explained that although Student was experiencing interpersonal difficulties and missing school, he worked collaboratively with peers and performed well academically when he was in school. Student's private therapist had diagnosed Student with Major Depressive Disorder-Mild and anxious distress, but teachers did not observe symptoms related to depression or anxiety in the school setting, and none of the assessments indicated Student had an inability to learn.

The Riverside IEP team members found that Student did not qualify for special education under any of the 13 eligibility categories because he did not meet the criteria of any qualifying category and did not need special education and related services to access the curriculum. For example, in the category of characteristics often associated with autism, Student did not have communication and social interaction deficits adversely affecting his educational performance. In the category of emotional disability, Student did not have an inability to learn, an inability to build and maintain satisfactory interpersonal relationships with peers or teachers, or exhibit inappropriate behavior, feelings, or a general pervasive mood of unhappiness or depression over a long period of time and to a marked degree that adversely affected his educational performance. Student's attention and executive functioning deficits no longer adversely affected his educational performance in the category of other health impairment. Accommodations could be provided under a 504 plan, and tutoring help, counseling, and other services were available to all students. The May 1, 2025 IEP did not offer Student special education eligibility and Parent did not sign the May 1, 2025 IEP.

Student passed all his 2024-2025 classes with grades of As, Bs, and two Cs, except for Math 3. Student earned a B in Math 3 in the first semester, and an F in the second semester.

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2025-2026 SCHOOL YEAR: SETTLEMENT AGREEMENT AND NOVEMBER 2025 IEP

Student moved to a new school within Riverside for the 2025-2026 school year. He was placed in general education classes for twelfth grade, without accommodations.

On October 6, 2025, after informal dispute resolution related to the recent assessments and the May 1, 2025 IEP, Parents and Riverside entered into a written settlement agreement. The agreement provided a mechanism for Parents to obtain independent assessments or tutoring for Student, and required an IEP team meeting to be scheduled within 30 days of full execution of the agreement to consider Student's potential eligibility for special education. It also provided a list of accommodations for Student, such as extended time on tests, late assignments receiving full credit, and increased verbal response time. In return, Parents waived any claims arising from or related to Student's special education programming through the date of the agreement, and agreed not to request further assessments before July 30, 2025.

For consideration at the agreed-upon upcoming IEP team meeting, a Riverside school psychologist attempted for two days in late October 2025 to contact Student's private therapist for any new information on Student's social emotional functioning, as permitted by Parent's signed release of information. The therapist did not respond.

On November 18, 2025, Riverside convened the IEP team meeting required by the settlement agreement. Parents, Student, Student's advocate, Student's teachers, and Riverside program specialists and school administrators attended. Teachers shared that Student was doing good work during class, but was not regularly turning in completed assignments. Student was re-taking Math 3 and passing all classes needed to graduate.

Parents expressed they wanted Student on an IEP, and Student's advocate requested another educationally related mental health assessment and a functional behavior assessment.

Riverside's IEP team members considered the May 2025 educationally related mental health assessment, but found Student capably accessing the curriculum with general education supports, such as check-ins with the school advisor, counseling at the school's wellness center, and tutoring available at lunch and after school. Student was not exhibiting maladaptive behaviors in the classroom. Riverside's IEP team members did not find Student needed special education or related services to access the general education curriculum, and Student was not offered an IEP. The IEP team recommended a 504 plan to ensure Student had all the accommodations he needed. Parents did not consent to the November 18, 2025 IEP's finding of ineligibility.

As discussed, on February 20, 2026, after the sexual harassment investigation report was completed and received by Riverside, Student was suspended for five days and the principal recommended Student for expulsion for misconduct in both the first and second incidents. On April 20, 2026, Parent requested another full evaluation of Student for special education eligibility.

Student passed all classes needed to earn a regular high school diploma. He graduated at the end of the 2025-2026 school year with a regular high school diploma.

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NO BASIS OF KNOWLEDGE

Student argues Riverside had a basis of knowledge that Student was a child with a disability in January 2025 for purposes of granting Student the disciplinary protections afforded children with disabilities as to the second incident on or about January 24, 2025. Student's argument fails for two reasons.

First, a school district is only deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred, one of three things alerted the school district that Student was a child with a disability. Those are:

- The parent expressed concern in writing that the child was in need of special education and related services,
- The parent requested an initial evaluation of the child for special education eligibility, or
- The teacher or other school staff expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district's director of special education or other supervisory personnel.

None of those happened here. There was no evidence that Parent expressed in writing that Student was in need of special education and related services after Student was exited from special education on November 13, 2024, but before the second incident on January 24, 2025. Parent did not request a comprehensive assessment of Student for special education eligibility until February 4, 2025, when he reported Student was experiencing new symptoms of anxiety and depression. Lastly, none of

Student's teachers expressed concerns about a pattern of behavior demonstrated by Student to Riverside's director of education or other supervisory personnel before January 24, 2025.

Even had any of these three requests been timely made, a school district is not deemed to have knowledge that a child is a child with a disability if the student was evaluated and it was determined that the student was not a child with a disability. (20 U.S.C. § 1415(k)(C.)

Here, Student was comprehensively evaluated for his three-year review in September and October 2024, and exited from special education on November 13, 2024. The November 13, 2024 IEP team, including Parent, agreed Student did not meet the eligibility criteria for a child with a disability, in part because he did not need special education instruction or related services to access the general education program.

At Parent's request, Student was reassessed in speech and language, academic achievement, and for educationally related mental health services in March and April 2025, and still found ineligible for special education at the May 1, 2025 IEP team meeting. Again, Student did not meet the criteria for any eligibility category, and demonstrated that he did not need special education or related services to access the general education curriculum. In the settlement agreement, Student waived any claims regarding the accuracy or appropriateness of those assessments or the May 1, 2025 IEP.

Riverside convened another IEP team meeting on November 18, 2025, at which Riverside IEP team members also found Student ineligible for special education. On these facts, Riverside cannot be deemed to have knowledge that Student was a child with a disability on or after January 24, 2025.

In his closing brief, Student argues Riverside was required to assess him for special education eligibility again after Parent requested a full evaluation on April 20, 2026, during the time period Student was subjected to disciplinary measures. However, Student's complaint was filed on March 19, 2026, before Parent's request and therefore, that request was not raised in the complaint.

A party who requests a due process hearing may not raise issues at the hearing that were not raised in the request, unless the opposing party agrees otherwise. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *County of San Diego v. California Education Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1465.) Here, Riverside did not agree to expand Student's expedited issue. Student's reference to a prior written notice admitted into evidence denying the April 20, 2026 assessment request is insufficient to establish consent to an expansion of the expedited issue beyond Student's complaint. Therefore, this Decision will not address that argument.

STUDENT DID NOT NEED SPECIAL EDUCATION

The second prong of eligibility for special education requires a child with an eligible disability to also need special education and related services to access their education. (20 U.S.C. § 1401(2)(A); 34 C.F.R. § 300.8.) Here, the weight of the evidence demonstrated that Student earned passing or average grades with a nominal 20 minutes per month of specialized academic instruction at the time of the November 13, 2024 IEP team meeting, and without the benefit of any special education at the time of the May 1, 2025, and November 18, 2025 IEP team meetings.

Student's argument that Student needed special education services because he could not handle his academic caseload without them is unpersuasive. While some

supports might have helped Student in the general education curriculum, Riverside offered Student supports in the form of accommodations and general education interventions in a 504 plan, but Parent refused. Parent appeared to be incorrectly advised by Student's advocate that if Student was on a 504 plan, Student could not be evaluated for special education eligibility. As a result, Student now lacks persuasive evidence that the types of general education intervention and supports offered in a 504 plan could not meet Student's educational needs.

Without special education and related services after November 13, 2024, and with only accommodations after the October 6, 2025 settlement agreement, Student passed all classes needed for a regular high school diploma by the end of the 2025-2026 school year. This evidence supported Riverside's determination at the November 13, 2024, May 1, 2025, and November 18, 2025 IEP team meetings that any weakness Student exhibited could be corrected within the regular education program, and he was not a child with a disability under the IDEA. (See *Hood, supra*, at p. 1107.)

Student argues that if he had a diagnosis of a disability that would be with him for life, he was a child with a disability for IDEA purposes. However, the criteria for medical diagnoses and for IDEA eligibility are very different. Student's IEP teams repeatedly found him ineligible for special education under the IDEA because his impairments did not require special education and related services, a critical prong of the eligibility analysis. Parents' waiver in the October 6, 2025 settlement agreement bars Student from challenging the eligibility determinations in the November 13, 2024, and May 1, 2025 IEPs. As to the November 18, 2025 IEP, Student did not prove by a preponderance of the evidence that the November 18, 2025 IEP team should have found him eligible for special education.

At hearing, Student produced an independent psychological evaluation by Keith Belton, Psy.D., dated April 15, 2026, which evaluated Student's cognitive, behavioral, and social-emotional functioning during disciplinary procedures. Dr. Belton diagnosed Student with severe ADHD, probable Major Depressive Disorder, and traits of autism spectrum disorder. Dr. Belton relied on input from Parents and Student, and did not observe Student at school or contact anyone on Riverside's staff about Student's academic performance or social interactions in the school environment.

Dr. Belton testified he reviewed all recent assessments by Riverside, but his report does not mention the April 2025 speech and language assessment, or the May 2025 educationally related mental health assessment. Although Dr. Belton considered Riverside's October 2024 psychoeducational assessment of Student, conducted at the time of the alleged first incident, he did not address or explain the inconsistencies between his results and Riverside's October 2024 assessment finding Student ineligible for special education. His report makes no reference to the alleged January 24, 2025 second incident. Dr. Belton, in his report or testimony, did not review the eligibility factors of any of the IDEA eligibility categories, or whether and which eligibility categories would apply to Student's conduct in August through October 2024.

Dr. Belton's failure to obtain input from school personnel, to address assessment inconsistencies, and to consider the two most recent and comprehensive assessments of Student's social language skills and emotional functioning, seriously undermined his conclusions regarding Student's past and present behavioral profile. Dr. Belton did not discuss Student A's allegations against Student in any detail, and therefore, his opinion that Student's alleged misconduct in August through October 2024 was a manifestation of Student's neurodevelopmental and psychiatric disabilities, and a direct result of a premature termination of his IEP on November 13, 2024, was not persuasive.

The second half of Dr. Belton's conclusion, that Student's conduct in August through October 2024, was a direct result of Student's exit from special education in November 2024, did not make sense. Dr. Belton's repeated references to "false" allegations against Student, and his closing comment that Riverside "did Student dirty," suggested he perceived his role more as an advocate than an independent expert, which adversely affected his credibility. That also suggested the results and recommendations in his report were skewed to characterize Student as an innocent impulsive and socially inept child, rather than to accurately portray Student's need for special education and related services.

Even assuming Dr. Belton's medical diagnosis of ADHD and traits of autism were accurate, they were insufficient to establish that Student was a child with a disability in January 2025 or at the time of his report in April 2026, entitling Student to the disciplinary protections of the IDEA. Although ADHD and autism are life-long disabilities, the testimony of Riverside's expert Charity Plaxton-Hennings, Psy.D., established the intensity or impact of a child's deficits may change over time. She opined that autism is a spectrum disorder indicating a range of disability, some of which allow a child to appropriately function without special education. Dr. Plaxton-Hennings's opinion was corroborated by Riverside's educators who were educated, trained, and experienced in working with children with autism, and was uncontradicted by Dr. Belton. As a result, Dr. Belton's medical diagnosis alone was insufficient to support a finding of eligibility for special education. (See *E.J. v. San Carlos Elem. Sch. Dist.* (N.D.Cal. 2011) 804 F. Supp. 2d 1024, 1032.)

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In summary, Student did not prove by a preponderance of the evidence, as to the alleged second incident on or about January 24, 2025, Riverside should have completed assessments or convened an IEP team meeting to address Student's conduct for which he was disciplined prior to initiating a disciplinary change of placement.

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:

Riverside was required to conduct a manifestation determination review, and to complete assessments or convene an IEP team meeting to address Student's alleged conduct from August through October 2024, prior to initiating a disciplinary change of placement, if that conduct was determined to be a manifestation of his disability.

Riverside was not required to conduct a manifestation determination review, or to complete assessments or convene an IEP team meeting to address Student's alleged conduct on or about January 24, 2025, prior to initiating a disciplinary change of placement.

Student partially prevailed on Issue 1.

Riverside partially prevailed on Issue 1.

REMEDIES

An ALJ may order a school district to conduct a manifestation determination under title 20 United States Code section 1415, subdivision (k) if the ALJ determines the school district failed to do so. (20 U.S.C. § 1415(k)(3)(A) & (B)(1); 34 C.F.R. 300.532(a) & (c).) Section 1415, subdivision (k)(3) does not limit a hearing officer from awarding other equitable remedy to craft appropriate relief. (20 U.S.C. § 1415(k)(3); *Parents of Student W. v. Puyallup School Dist. No. 3* (9th Cir. 1994) 31 F.3d 1489, 1497.) Because this Decision finds Riverside should have convened a manifestation determination review related to Student's conduct in August through October 2024, requiring them to do so now is an appropriate remedy.

ORDER

1. Riverside must conduct a manifestation determination review of Student's alleged conduct toward Student A from August 2024 through October 2024 before any action may be taken to expel Student for that conduct.
2. Any documents regarding Student's suspension and Principal's Recommendation for Expulsion, dated February 20, 2026, to the extent they reference Student's alleged conduct towards Student A from August 24 through October 24, must be expunged from Student's educational records. This order does not apply to Student A's sexual harassment complaint, witness statements, or the sexual harassment investigation report, which may all remain in Student's educational records.

3. Student is denied any relief for his claims against Riverside for actions taken by Riverside to suspend or expel Student for conduct towards Student B on or about January 24, 2025.

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.

ALEXA HOHENSEE

Administrative Law Judge

Office of Administrative Hearings