

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT.

CASE NO. 2025100303

DECISION

JULY 13, 2026

On October 8, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, naming San Francisco Unified School District, called San Francisco. On October 28, 2025, OAH granted the parties' joint request for a mediation and continuance. On December 22, 2025, OAH granted the parties' joint request for a second continuance. On February 10, 2026, OAH granted Student's request to amend the due process hearing request and deemed the proposed amended due process hearing request, called the amended complaint, filed. On March 20, 2026, OAH granted the parties' joint request for a continuance. Administrative Law Judge Kara Hatfield heard this matter by videoconference on April 7, 8, 9, 13, 14, 15, 16, 21, 22, 23, 29, and 30, 2026. An Administrative Law Judge is called an ALJ.

Attorneys Eric Menyuk and Sophia Bliziotis represented Student. Parent attended all hearing days on Student's behalf. Student was sometimes present with Parent during the hearing. Attorney Haley Fagan represented San Francisco. San Francisco's Director of Special Education for preschool through elementary grades, Margaret Michels Espinosa, attended each day of hearing on San Francisco's behalf. San Francisco's Director of Special Education who oversees related services and psychological services, Heather Logan, attended on April 8 and 9, 2026, when Director Espinosa was not available.

At the parties' request, the matter was continued to May 26, 2026, for written closing briefs. The record was closed, and the matter was submitted on May 26, 2026.

ISSUES

In this Decision, a free appropriate public education is called a FAPE. An individualized education program is called an IEP.

At the conclusion of the due process hearing on April 30, 2026, Student withdrew issues regarding direct orientation and mobility services, identified in the April 8, 2026 Order Confirming Issues at Due Process Hearing as Issues 3b, 6b, and 10b. Those issues have been removed from the list of issues below. The remaining subparts of Issues 3, 6, and 10 have not been renumbered.

Also at the conclusion of the due process hearing on April 30, 2026, Student withdrew part of Issue 9 regarding the absence at the January 15, 2026, IEP team meeting of a person with appropriate training or qualifications in orientation and mobility. The remaining wording of Issue 9 remains.

Issues 3b, 6b, 10b, and the part of Issue 9 regarding the absence at the January 15, 2026 IEP team meeting of a person with appropriate training or qualifications in orientation and mobility are dismissed with prejudice. There was no agreement between the parties to dismissal of those Issues without prejudice, and the ALJ finds no good cause for dismissal without prejudice. (See Code Civ. Proc. § 581, subd. (e).)

The issues remaining at the due process hearing, as alleged in Student's amended complaint and clarified by the parties and the ALJ at the start of the due process hearing, and after Student withdrew Issues 3b, 6b, and 10b and part of Issue 9 are:

1. Did San Francisco deny Student a FAPE by failing for the November 15, 2023, IEP to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment?
2. Did San Francisco deny Student a FAPE by failing at the November 15, 2023, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf-blind education, tactile communication, or orientation and mobility during the IEP development process?
3. Did San Francisco deny Student a FAPE by failing in the November 15, 2023, IEP to offer necessary services, specifically:
 - a. Deaf-blind intervention; or
 - c. Tactile communication instruction?

4. Did San Francisco deny Student a FAPE by failing in the November 15, 2023, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers?
5. Did San Francisco deny Student a FAPE by failing between November 15, 2023, and May 21, 2025, to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment?
6. Did San Francisco deny Student a FAPE by failing in the May 21, 2025, IEP to offer necessary services, specifically:
 - a. Deaf-blind intervention; or
 - c. Tactile communication instruction?
7. Did San Francisco deny Student a FAPE by failing in the May 21, 2025, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers?
8. Did San Francisco deny Student a FAPE by failing for the January 15, 2026, IEP to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment?
9. Did San Francisco deny Student a FAPE by failing at the January 15, 2026, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf/blind education or tactile communication during the IEP development process?

10. Did San Francisco deny Student a FAPE by failing in the January 15, 2026, IEP to offer necessary services, specifically:

- a. Deaf-blind intervention; or
- c. Tactile communication instruction?

11. Did San Francisco deny Student a FAPE by failing in the January 15, 2026, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers?

No other issues were tried or are resolved by this Decision. Student repeatedly tried before the due process hearing began to add an issue she had not raised in the amended complaint regarding San Francisco's offers of placement. OAH repeatedly determined Student's amended complaint had not stated any issue challenging placements San Francisco offered during the statutory period.

Moreover, Student never filed a written motion for leave to file a second amended complaint or a proposed second amended complaint, despite the Individuals with Disabilities Education Act, called IDEA, and California Education Code requirement to do so to add new issues. (20 U.S.C. § 1415(c)(2)(E)(i); 34 C.F.R. § 300.508(d)(3).) Instead, Student improperly attempted through her prehearing conference statement to expand the issues for hearing beyond those she enumerated in her amended complaint.

At the March 27, 2026, prehearing conference, the ALJ denied Student's inappropriate attempt through her prehearing conference statement to expand the issues for hearing. Student then improperly moved to amend the complaint by oral

motion. The ALJ denied the oral motion and documented that in the March 30, 2026, Order Following Prehearing Conference, which listed the issues that would be decided at the due process hearing.

On April 1, 2026, Student made a third improper attempt to expand the issues for hearing beyond those asserted in the amended complaint. This time, Student filed a request to modify the statement of the issues listed in the March 30, 2026, Order Following Prehearing Conference, to insert the same issue the ALJ refused to include as a hearing issue during the prehearing conference.

On the first day of hearing, April 7, 2026, the ALJ presiding considered Student's April 1, 2026, filing and San Francisco's written opposition, and allowed oral argument. Student orally argued the list of hearing issues should include issues challenging the placements San Francisco offered during the statutory period. The ALJ reviewed the operative amended complaint and concluded it did not state any issue challenging the placements San Francisco offered during the statutory period and refused to allow this belated issue to be adjudicated in this hearing.

Student's written closing argument yet again attempts to improperly raise the identical placement issue repeatedly disallowed, as well as inappropriately asserting other new claims, never identified as issues in the amended complaint and not listed as hearing issues in the March 30, 2026, Order Following Prehearing Conference. The asserted new issues include a claim that San Francisco was not capable of implementing Student's IEPs and claims regarding the adequacy and timing of certain assessments conducted as part of the May 2025 three-year-review reevaluation, and others. Student unconvincingly argues the issues of placement appropriateness and implementation

capability were fully tried by both parties, and so Student is permitted to conform her amended complaint to the evidence and add these new claims as issues to be decided in this Decision.

Student's argument is unpersuasive for many reasons. Student asserts that San Francisco implicitly consented to trial of additional issues absent from the amended complaint because some evidence relevant to those new issues came in at hearing. However, just mentioning certain evidence at hearing is not an agreement by San Francisco to a further amendment of the operative amended complaint or to trying additional issues. Student's argument completely ignores and runs afoul of the statutory scheme for administrative law cases under the IDEA and California Education Code.

Due process hearing requests are required to be in writing. (Ed. Code, § 56502, subd. (c)(1), (2); see also 20 U.S.C. § 1415(b)(7)(A), (B); see also 34 C.F.R. § 300.308(a)(2).) A party who requests a due process hearing may not raise issues at the hearing that were not raised in the due process hearing 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 Educ. Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1465.) Here, Student never filed a second amended complaint, and San Francisco did not agree and in fact affirmatively declined at the prehearing conference and on the first day of hearing to add any new claims to the issues being redressed at hearing.

The IDEA allows a party to amend its due process complaint "only if" the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to title 20 United States Code section 1415(f)(1)(B), or the hearing officer grants permission, which may only be granted not

less than five days before the due process hearing occurs. (20 U.S.C. § 1415(c)(2)(E)(i); 34 C.F.R. § 300.508(d)(3); Ed. Code, § 56502, subd. (e).) Under the IDEA, claims in a student-filed case are subject to a 30-day resolution period unless waived in writing by both parties. (20 U.S.C. § 1415(f)(1)(B), 34 C.F.R. § 300.510; Ed. Code, § 56501.5.)

The filing of an amended complaint re-starts the applicable timeline for a due process hearing, including the timeline under title 20 United States Code section 1415(f)(1)(B), imposing a new 30-day resolution period before the hearing can take place. (20 U.S.C. § 1415(c)(2)(E)(ii); 34 C.F.R. § 300.508(d)(4); Ed. Code, § 56502, subd. (e).) The IDEA's specific permission to amend a complaint "only if" one of two conditions are met – neither of which were satisfied here – precludes Student's request to conform the pleadings to evidence from the hearing to belatedly add new claims. Moreover, San Francisco never consented to any waiver of the required 30-day resolution period imposed to give it the opportunity to resolve the dispute on Student's new claims. (See 20 U.S.C. § 1415(c)(E)(i) and (f)(1)(B)(i) & (3)(B); 34 C.F.R. § 300.510(a), (b) & (c); Ed. Code, §§ 56501.5, 56502, subd. (e).)

Thus, the law is clear that Student's attempts to add new claims by conforming the claims to the evidence at hearing is not allowed in special education cases. Instead, unlike ordinary civil claims in state and federal court, title 20 United States Code section 1415(o) specifically entitles a student to file a separate due process complaint on an issue separate from a due process complaint already filed, entitling the student to separate hearings with OAH even where it arises out of the same transaction or occurrence. This allows for a faster resolution of special education claims, furthering the IDEA and California law directives to ensure a claim involving a child with special needs is adjudicated quickly.

Having failed to properly and timely move in writing to file a second amended complaint before hearing and having failed to establish that San Francisco consented to the addition of any new issues or a waiver of the resolution period mandated by law, Student's requests made in her written closing argument to obtain a determination on her new issues she asserts were in fact tried, are denied. The additional claims Student wishes had been included in her amended complaint remain available to be stated in a future request for due process hearing, subject to the statute of limitations or other appropriate defenses, and are not adjudicated by this Decision.

JURISDICTION

This hearing was held under 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 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 (2006); Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) All further references to the Code of Federal Regulations are to the 2006 version, unless stated otherwise. The party requesting the hearing has the burden of proof by a preponderance of the evidence. (*Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Student had 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 law.

At the time of hearing, Student was 13 years old. She resided with Parent within San Francisco's geographic boundaries at all relevant times. Student had a rare genetic condition that caused a specific syndrome, which significantly impacted all aspects of her development, health, and functioning. For purposes of eligibility for special education and related services, her categories were deaf-blindness and multiple disabilities.

Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(2).) Multiple disabilities means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the

combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments; “multiple disabilities” does not include deaf-blindness. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(7).)

STUDENT’S MEDICAL CONDITIONS AND CIRCUMSTANCES

Student was born with impaired hearing, discovered at birth. She was immediately referred to in-home support services with Center for Early Intervention on Deafness (CEID, pronounced like seed). CEID worked with families in their homes with babies identified as deaf or hard-of-hearing, including with Student and Parent the year Student was born, to identify which language and mode of communication a parent preferred to use with their child. Some parents chose to pursue English with auditory and oral modes. Some parents chose to pursue American Sign Language, called ASL, with visual mode. There were other possibilities, too. Parent chose ASL as Student’s primary communication mode.

Over time, it was discovered Student also had several medical conditions that were impediments to her vision, and that she was visually impaired. In spring 2024 Student’s doctors discovered her myopia, or near-sightedness, had worsened from what it had been earlier. Also as a result of her specific syndrome, Student had many medical diagnoses, some of which included:

- profound intellectual disability;
- global developmental delay;
- epilepsy, with the last seizure in January 2023 and managed by daily medication;

- dysphagia, or difficulty swallowing, sometimes leading to recurrent aspirational pneumonia, with the last occurrence when Student was five years old;
- delayed gastric emptying, gastroesophageal reflux disease treated with medication after meals and movement after eating, and abdominal distension;
- neuromuscular scoliosis and a tethered spinal cord, both of which Student had surgeries to address;
- atypical stereotyped movement disorder; and
- a heart valve defect.

At 13 years old, Student was very petite at three feet, nine inches tall, and 45 pounds. Her hands were the size of a young infant's and had structural malformations limiting her hand positions and movements. Her elbows had malformations that limited movement. For example, because of structural differences in her elbows, she could not turn her hands from a palms-up to a palms-down position. She had a risk of her colon twisting, which could be a medical crisis.

Student consumed food and beverages orally with some assistance. Additionally, she needed to be monitored for regurgitation, aspiration, constipation, and seizures that could result in serious medical emergencies of difficulty breathing, infections, bowel obstruction or twisting, and harm from seizures.

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Student had significant hearing loss in both ears, with some residual hearing. She had hearing aids that enabled her access to some sound sensory information, but since around 2021, she refused to wear them. The evidence indicated Student did react or respond to some sounds in her environments even without hearing aids.

Student communicated expressively with vocal squeaks, squeals, moans, and cries, and with facial expressions and body movements, and was classified as nonverbal. Student was persistent in making it known and getting what she wanted, sometimes subtly with eye gaze or looking in the direction of or moving toward something she wanted. She also expressed what she did not want by turning away or pushing or swatting away what she did not or no longer wanted.

Student could approximate a few ASL signs. Student made a sign for mom, for herself – called her “name sign” –, and for milk/bottle. To indicate she wanted something, she reached her arms out. The way Student signed for “more” was an approximation of the ASL sign. Parent understood Student’s approximation to signify “more,” but other ASL users not familiar with Student would not understand her movement as meaning “more.”

Student responded well to sensory stimulation, meaning tactile input, and was not fearful of touch, although she had some tactile defensiveness in her hands. Parent spoke English aloud to Student and simultaneously used ASL signs she herself had learned. Parent had familiarity with many ASL signs but did not describe herself as fluent in ASL. Parent signed to Student with single signs or two-sign phrases while speaking English aloud to Student, and Parent thought that was sufficient for her to communicate with Student. It was not clear whether Parent had always signed very close to Student’s face or if that started after Student’s most recent vision examination

in March 2024, but Parent signed within a foot or two of Student's face to increase the likelihood Student could see Parent's signs. Parent also sometimes signed onto Student's body. For example, when asking Student if she was hungry, Parent made the hand shape and motion dragging downward for the ASL sign "hungry," but rather than touching her own chest while making the sign, Parent dragged her hand down Student's chest.

Earlier testing reportedly assessed that Student receptively understood 30 to 40 signs in ASL. The evidence did not establish what those 30 to 40 signs were, or the exact number of signs. A difference of 10 signs is significant, being 25 to 33 percent of the total signs Student understood. How many ASL or other signs were in Student's receptive communication vocabulary or repertoire was not credibly established at hearing.

Student crawled well, and stood or walked by holding someone's hand or steadying herself against an object, or when wearing a gait belt supported by an adult. Student could not sit for long periods and needed to lie down flat often throughout the day. Student engaged and interacted with her environment largely through learned routines, such as for eating snacks and meals, taking a bath in the bathroom, and going to bed in the bedroom. She became familiar with the location of and pathways to things and followed routines with prompting.

Student always wore diapers and was not toilet trained, although Parent had recently started helping Student spend time on a toilet.

Student was well liked by everyone who met her. She had a cheerful personality and was sometimes perceived to be a little bit sassy. She was engaged, curious, and sought relationships and communication with people.

ISSUE 1: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING FOR THE NOVEMBER 15, 2023, IEP TO CONDUCT OR INCORPORATE APPROPRIATE ASSESSMENTS, INCLUDING A COMMUNICATION ASSESSMENT OR ASSISTIVE TECHNOLOGY ASSESSMENT?

Student contends San Francisco had an ongoing obligation to assess Student to have updated information on Student's communication needs prior to the November 15, 2023, IEP team meeting. Student argues her tactile primary mode of communication should have prompted a communication assessment, including assistive technology and augmentative and alternative communication components. San Francisco asserts no assessment was necessary for the November 15, 2023, IEP team meeting because it was not informed, and no evidence established, that Student's needs had materially changed since the three-year-review assessment conducted in April 2022.

A FREE APPROPRIATE PUBLIC EDUCATION

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.)

Special education is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(29); 34 C.F.R. § 300.39; Ed. Code, § 56031.) Related services are transportation and other developmental, corrective, and supportive

services that are required to assist the child in benefiting from special education. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a) [in California, related services are also called designated instruction and services].)

In general, an IEP is a written statement for each child with a disability that is developed under the IDEA's procedures with the participation of parents and school personnel that describes the child's needs, academic and functional goals related to those needs, and a statement of the special education, related services, and program modifications and accommodations that will be provided for the child to advance in attaining the goals, make progress in the general education curriculum, and participate in education with disabled and non-disabled peers. (20 U.S.C. §§ 1401(14), 1414(d); Ed. Code, § 56032.)

In general, a child eligible for special education must be provided access to specialized instruction and related services 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 [102 S.Ct. 3034] (*Rowley*); *Endrew F. v. Douglas County School Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000] (*Endrew F.*).

In *Rowley*, the Supreme Court held that "the 'basic floor of opportunity' provided by the [IDEA] consists of access to specialized instruction and related services which are individually designed to provide educational benefit to" a child with special needs. (458 U.S. at p. 201.) *Rowley* expressly rejected an interpretation of the IDEA that would require a school district to "maximize the potential" of each special needs child "commensurate with the opportunity provided" to typically developing peers. (*Id.* at

p. 200.) Instead, *Rowley* interpreted the FAPE requirement of the IDEA as being met when a child receives access to an education that is reasonably calculated to “confer some educational benefit” upon the child. (*Id.* at pp. 200, 203-204.)

In 2017, the Supreme Court reaffirmed that to meet its substantive obligation under the IDEA, a school district must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. “[T]he benefits obtainable by children at one end of the spectrum will differ dramatically from those obtainable by children at the other end” (*Endrew F., supra*, 580 U.S. at pp. 399, 400, 402-403 (quoting *Rowley*.)

Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether it is ideal. (*Endrew F., supra*, 580 U.S. at p. 399, citing *Rowley*, 458 U.S. at pp. 206–207.) An IEP “must simply ‘aim to enable the child to make progress,’ and ... the ‘standard is not perfection.’” (*B.S. v. Waxahachie Independent School Dist.* (5th Cir., March 23, 2023, No. 22-10443) 2023 WL 2609320, *10 (nonpub. opn.), quoting *E.R. ex rel. E.R. v. Spring Branch Indep. School Dist.* (5th Cir. 2018) 909 F.3d 754, 769.)

LAW ON FREQUENCY OF ASSESSMENTS

In developing the IEP, the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the child’s education, the results of the most recent evaluations of the child, and the academic, developmental, and functional needs of the child. (20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. § 300.324(a).)

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Before any action is taken to place a student with exceptional needs in a program of special education, an assessment of the student's educational needs must be conducted. (20 U.S.C. § 1414(a)(1)(A); Ed. Code, § 56320.) The IDEA uses the term "evaluation," while the California Education Code uses the term "assessment." In this Decision the terms mean the same thing and are used interchangeably.

The IDEA provides for periodic reevaluations to be conducted not more frequently than once a year unless the parents and school district agree otherwise, but at least once every three years unless the parent and school district agree that a reevaluation is not necessary. (20 U.S.C. § 1414(a)(2)(B); 34 C.F.R. § 300.303(b); Ed. Code, § 56381, subd. (a)(2).)

A reassessment must also be conducted if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment. (20 U.S.C. § 1414(a)(2)(A)(i); 34 C.F.R. § 300.303(a)(1); Ed. Code, § 56381, subd. (a)(1); *M.S. v. Lake Elsinore Unified School District* (9th Cir. 2017) 678 Fed. Appx. 543, 544 (*Lake Elsinore*) (nonpub. opn.).) A parent's expressions of concern about a student's progress or behavior do not meet this threshold. (*Lake Elsinore, supra*, 678 Fed. Appx. at p. 544.)

The underlying case in *Lake Elsinore* concerned a student who brought an action challenging the school district's failure to identify all the student's disabilities or suspected disabilities, where the student's behaviors had become progressively more aggressive and posed a threat to her health and safety. At a 2011 IEP team meeting, the parents expressed their concern the student had become more aggressive at home and with tutors, and she sometimes attacked strangers in public. She had also begun ripping off

her toenails and fingernails, had a one-inch bald spot on her scalp from pulling out her own hair, manipulated her fingers, and violently scratched, pinched, and grabbed people's necks. She also screamed and cursed at random intervals.

At a May 2012 IEP team meeting, the parents further noted the student exhibited significant echolalia and perseveration and had developed other troubling behavior such as swiping objects off a table and breaking them. At a July 2012 IEP team meeting, even the school district concluded the student's behaviors had worsened and were not being addressed sufficiently by the behavior plan that had been in place up until that time. (*M.S. v. Lake Elsinore* (C.D.Cal., July 24, 2015, Case No. 13-CV-01484-CAS (SPx) 2015 WL 4511947, at *7.) The district court held that the school district denied the student a FAPE by failing to assess the student's behavior during the period at issue, because the student's functional performance warranted a reevaluation. (*Id.* at *8.)

The United States Court of Appeals for the Ninth Circuit reversed. It held that the school district had no duty to conduct a reevaluation of the student because the local educational agency did not determine that reevaluation was necessary, the student's parents had not requested a reevaluation, the student's teacher had not requested a reevaluation, and fewer than three years had elapsed since the student's last evaluation. The Ninth Circuit held the district court erred in holding that the school district had a duty to reevaluate the student under these circumstances, and the school district had not procedurally violated the IDEA by failing to do so. (*Lake Elsinore, supra*, 678 Fed. Appx. at p. 544.)

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The statute of limitations for special education claims in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (f); see also 20 U.S.C. § 1415(f)(3)(C).) Student's due process hearing request was filed on October 8, 2025, and her claim in Issue 1 includes the period from October 8, 2023, through November 15, 2023, 39 days.

STUDENT'S HISTORY THROUGH THE NOVEMBER 15, 2023, IEP TEAM MEETING

As a preschooler at around age two, Student attended CEID's preschool program for deaf and hard-of-hearing toddlers. CEID used a "total communication" approach, individualized to build auditory and visual access. Preschoolers with impaired vision as well as hearing, sometimes referred to as deaf-blind, were taught with an adapted total communication approach that brought signs and items closer into their field of vision and used signs such as in or under the student's hands or on their body

When Student turned three, she lived in another school district and through her initial IEP, she continued to attend CEID in the preschool program through the 2017-2018 school year, at which time she turned six and was outside the age range CEID was authorized by its state license to serve. In the preschool program's total communication approach, signing was ASL although the teacher used a more sign-supported English because the teacher signed while speaking at the same time. Student had a one-to-one aide who used ASL because that was one of the two languages indicated on her individual family services plan and then on her IEP, ASL and English. CEID also worked with Student on using eye gaze, gestures, and switches to communicate. Switches were large physical pushbuttons with pre-recorded audio announcements. CEID worked with Student on accessing three switches, to indicate "more," "finished" or "done," and greetings for peers or adults.

Early in the 2018-2019 school year, Student moved to another school district and began attending a deaf and hard-of-hearing preschool program at a public school of that district, although that was classified as her first-grade year. She continued in that preschool program in the 2019-2020 school year, although that was classified as her second-grade year. In March 2020, Student, like all students, began distance education from home due to the COVID-19 pandemic. That continued through the end of the 2020-2021 school year, Student's third-grade year.

The school district continued to hold IEP team meetings for Student and made offers of placement and services, which were not in evidence for this hearing. However, OAH records reflect in May 2019 Student filed a request for due process hearing alleging denials of FAPE by her two prior school districts. In January 2021, her last school district requested a mediation only, regarding Parent's lack of consent to an IEP offered in October 2020.

Student relocated to San Francisco at some point in early 2021, but continued as a student in her former district during the distance-learning period of the pandemic. In the summer of 2021, Student registered for school in San Francisco, but did not attend school, asserting San Francisco did not offer her a FAPE.

San Francisco conducted three-year-review assessments of Student in April 2022. The reports of those assessments were not in evidence.

OAH records reflect in October 2022, Student filed a request for due process hearing alleging San Francisco denied her a FAPE. The parties entered into a settlement agreement in February 2023, the terms of which San Francisco asserted were confidential. Parent disclosed one aspect of it during a later IEP team meeting, documented in the audio recording of that IEP team meeting and the meeting notes of that IEP. Parent also

discussed in correspondence with San Francisco, which was admitted as exhibits in this hearing, and also described in her testimony at hearing another term of the February 2023 settlement agreement related to future assessments. In her correspondence and testimony, Parent asserted San Francisco breached the settlement agreement by failing to conduct the assessments and hold an IEP team meeting by a specified date in 2023. The February 2023 settlement agreement was not an exhibit at this hearing, but the evidence established there was a monetary fund created for Student from which Parent could pay for educational and related services for Student as compensatory education for alleged denials of FAPE after Student enrolled in San Francisco through some time in 2023.

Parent kept Student home during the 2021-2022, 2022-2023, and most of the 2023-2024 school years.

In early 2023, Parent searched for a campus-based program for Student to attend because Parent disagreed with San Francisco's IEP offer. Parent inquired about Student returning to preschool at CEID because although Student was 10 years old, she was small and very developmentally delayed. Student was out of the age range CEID was licensed to serve, and CEID's deaf and hard-of-hearing classrooms were full and had a waitlist of preschool referrals.

Parent inquired at California School for the Blind, but it did not serve students with intellectual disabilities.

Jennifer Herges had been one of Student's preschool teachers at CEID. As of May 2023, she was San Francisco's special education supervisor for deaf and hard-of-hearing programs and home-hospital instruction. In May 2023, Herges informed Parent San Francisco was starting a Deaf Plus program for elementary students for the upcoming school year. The term "deaf disabled" or "deaf plus" referred to students who were deaf

or hard-of-hearing and had additional disabilities beyond auditory sensory loss. Parent met with Herges and toured the elementary school campus on which the new program would operate.

THE SEPTEMBER 14, 2023, IEP TEAM MEETING

San Francisco convened an IEP team meeting on September 14, 2023, to offer Student an educational program. The meeting was planned to be the first of at least two. San Francisco team members wanted to discuss supporting Student in the new Deaf Plus program's classroom for students in third to fifth grades.

There was some disagreement with Parent about whether Student was in fifth or sixth grade, but Parent did not mind Student being classified as a fifth grader if that helped find a suitable classroom for Student's needs. Given Parent's efforts six months earlier to insert Student into a program for preschoolers, labeling Student as in elementary or middle school did not seem pertinent, although at hearing Student was critical of San Francisco for incorrectly labeling her as fifth grade in the 2023-2024 school year.

Student's disabilities affected her involvement and progress in general curriculum. She was very small in stature, and had hearing, vision, cognitive, and physical delays. She needed a small student-to-teacher ratio, a classroom using multiple modalities to provide access to communication, and support for her physical and cognitive needs. She needed intensive individual support to be safe, curriculum adaptations to participate in general classroom activities, and specialized activities designed to her cognitive and physical ability levels.

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The full details of the September 14, 2023, IEP offer are described in Issues 3 and 4, below, because they were the same as the November 15, 2023, IEP offer. In summary, the Deaf Plus classroom would have as the primary teacher an education specialist, often called a special education teacher. The teacher would have a credential for serving students with extensive support needs, which were called moderate-to-severe disabilities before 2022, and further described in Issue 3, below. Additionally, San Francisco was going to have a classroom aide to support the teacher and students, and offered Student a dedicated one-to-one aide for the full school day, both of whom would work under the supervision and at the direction of the extensive support needs-credentialed teacher.

San Francisco offered Student 600 minutes weekly with a special education teacher with a credential for serving students who were deaf and hard-of-hearing. San Francisco also offered Student 600 minutes yearly with a special education teacher with a credential for serving students who had visual impairments. Both services are described in Issue 3, below.

San Francisco also offered Student direct related services from:

- A credentialed speech-language pathologist as well as a credentialed speech-language pathologist experienced in augmentative and alternative communication;
- A credentialed occupational therapist;
- A credentialed physical therapist;

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- A certified provider of orientation and mobility training; from a certified provider for 300 minutes yearly, at approximately 30 minutes each month delivered individually;
- A credentialed school; and
- Curb to curb transportation.

San Francisco offered Student extended school year services, which meant she would receive special education placement and services during the summer recess.

San Francisco offered supplementary aids and services and other supports for Student and school staff including cross-disciplinary consultation. San Francisco offered Student accommodations to the presentation of curriculum, physical space and equipment, and regarding sensory needs. San Francisco also offered communication accommodations including access to assistive technology equipment for augmentative and alternative communication and something called "Aided Language Stimulation."

San Francisco offered Student alternative or modified curriculum. Student would be included in the general education setting for 60 minutes daily in activities such as recess, lunch, library, gardening, music, and computer lab.

San Francisco offered consultation and training to Student's educational team members.

Parent wanted Student to have an "intervener" as a one-to-one aide. The term "intervener" is not used in or defined by the IDEA or California Education Code. According to the evidence at hearing, an intervener for the deaf-blind can be described as a trained individual who works one-to-one with a child who is deaf-blind in home, school, and community settings. The title of "intervener" is to designate a person who has training in

specialized skills related to deaf-blindness and who works consistently with one child or student. Parent's fallback request was a one-to-one aide who was fluent in ASL and was in the process of or would undergo training on deaf-blind intervener techniques.

The IEP team understood Parent wanted to tour the Deaf Plus classroom for third- to fifth-grade students now that it had started operations, and the IEP offer would not be finalized until after Parent had that opportunity. Parent also wanted to continue discussing the nursing services offer with which she disagreed, and the IEP team would revisit the topic of vision services when the IEP team reconvened.

On September 19, 2023, Herges sent Parent the draft September 14, 2023, IEP. Herges was leaving her employment with San Francisco and transitioned to a role as a contractor with San Francisco. Sheree Catingub was taking over coordination of the IEP for Student. Catingub contacted Parent a week later committing to answer some of Parent's questions Herges referred to Catingub. Over approximately the next month, Parent and San Francisco had email exchanges about Student attending the Deaf Plus program. Parent wanted Student to attend San Francisco's Deaf Plus program under an IEP from mid-2021 from a prior school district that contained full-day services from a teacher of the deaf and hard-of-hearing and full-day dedicated nursing services for Student. San Francisco was willing for Student to attend the Deaf Plus program under the terms of the September 14, 2023, IEP.

On October 20, 2023, Special Education Director Espinosa sent Parent a prior written notice with responses to Parent's questions. San Francisco responded to Parent's request to implement the May 6, 2021, IEP from Student's prior school district, which Parent asserted was Student's "legal IEP." San Francisco stated it was informed and believed the May 6, 2021, IEP was an amendment prepared by the prior school

district as part of the mediation process. San Francisco was aware the amendment IEP was never implemented by the prior school district and therefore it was not the “legal” or “stay put” IEP for Student, under case law of *E.E. v. Norris School District* (9th Cir. 2021) 4 F.4th 866.

San Francisco stated Student formally enrolled in San Francisco in the summer of 2021 and explained when a student transfers into a new school district outside of the academic year, the receiving district’s obligation is to either adopt the prior operative IEP, or in the alternative, assess the student and develop a new IEP, as described at 71 Federal Register 46682 (August 14, 2006). San Francisco stated Parent had been unwilling to make Student available for assessment by San Francisco until February 2022, due to her concerns regarding the COVID-19 pandemic.

San Francisco explained it conducted a comprehensive multi-disciplinary assessment of Student in Spring 2022 and thereafter conducted a health assessment of Student. San Francisco asserted the recommendations of these evaluations informed the current offer of FAPE dated September 14, 2023. San Francisco declined to implement the IEP from the other school district because San Francisco’s offer in the September 2023 IEP was reasonably calculated to provide Student a FAPE in light of her unique circumstances based on the most recent assessment data.

San Francisco offered to continue working with Parent and proposed three dates for an IEP team meeting. San Francisco and Parent coordinated to have an IEP team meeting facilitated by a member of the San Francisco Bar Association on November 15, 2023.

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NO NEW ASSESSMENTS BEFORE NOVEMBER 15, 2023

San Francisco conducted a three-year-review assessment of Student in April 2022. Accordingly, Student's next three-year-review assessment was not due until April 2025. San Francisco was not required to conduct a reevaluation of Student before then unless it determined Student's educational or related services needs, including improved academic achievement and functional performance, warranted a reassessment, or if a parent or teacher requested a reassessment. (20 U.S.C. § 1414(a)(2)(A)(i) & (ii); 34 C.F.R. § 300.303(a)(1) & (2); Ed. Code, § 56381, subd. (a)(1); *Lake Elsinore, supra*, 678 Fed. Appx. at p. 544.)

Here, for the period between October 8 and November 15, 2023, the evidence did not establish that San Francisco determined Student's educational or related services needs warranted reevaluation, or that a request for a communication assessment or an assistive technology assessment had been made by Parent or a teacher. Rather, the evidence established none of those events occurred.

Student alludes to the fact that a February 2023 settlement agreement between Parent and San Francisco may have required San Francisco to conduct certain assessments by a specific date in 2023. Such a settlement agreement, with its purported terms, was not offered into evidence. Any disputes related to a breach of contract or failure to comply with the terms of that settlement agreement are not the subject of this due process hearing.

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Student failed to prove by a preponderance of the evidence that San Francisco denied Student a FAPE by failing for the November 15, 2023, IEP to conduct or incorporate appropriate assessments, including a communication or assistive technology assessment.

ISSUE 2: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING AT THE NOVEMBER 15, 2023, IEP TEAM MEETING TO INCLUDE MANDATORY IEP TEAM MEMBERS WITH APPROPRIATE TRAINING OR QUALIFICATIONS IN DEAF/BLIND EDUCATION, TACTILE COMMUNICATION, OR ORIENTATION AND MOBILITY DURING THE IEP DEVELOPMENT PROCESS?

Student contends San Francisco denied her a FAPE by failing to have people attend the November 15, 2023, IEP team meeting who had appropriate training or qualifications in deaf-blind education, tactile communication, or orientation and mobility. San Francisco contends there is no requirement to have such specialized members on the IEP team, although the November 15, 2023, IEP team included professionals qualified to address Student's needs related to her status as a student with deaf-blindness.

Each meeting to develop, review, or revise the IEP of an individual with exceptional needs must be conducted by an IEP team. (Ed. Code, § 56341, subd. (a).) Unless excused in writing by the parent, the IEP team is required to include:

- one or both of the student's parents or their representative;
- a regular education teacher if a student is, or may be, participating in the regular education environment;
- a special education teacher;

- a representative of the school district who is qualified to provide or supervise specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about available resources;
- someone who can interpret the instructional implications of assessment results; and
- at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the child.

(20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.321(a); Ed. Code, §§ 56341, subd. (b), 56342.5.)

Student's closing brief misstates the requirements of the Code of Federal Regulations and California law for the composition of an IEP team. Student cites both as requiring an IEP team for a child with the primary disability of deaf-blindness to include members with the training and experience specific to deaf-blindness. However, the IDEA, its implementing regulations, and California law uniformly make the inclusion of individuals with knowledge or special expertise regarding the child discretionary, not mandatory. (20 U.S.C. § 1414(d)(1)(B)(vi); 34 C.F.R. § 300.321(a)(6); Ed. Code, §§ 56341, subd. (b)(6).)

Student also mischaracterizes caselaw as holding if a student's primary disability is deaf-blindness, an individual with training and experience specific to deaf-blindness must be on the IEP team. (Citing *Timothy O. v. Paso Robles Unified School Dist.* (9th Cir. 2016) 822 F.3d 1105 (*Timothy O.*).) *Timothy O.* was an assessment case

involving a student with autism. It did not address the composition of an IEP team and it did not mention deaf-blindness. The IDEA does not require that the IEP team include an expert in the student's disability. (*R.P. ex rel. C.P. v. Prescott Unified School Dist.* (9th Cir. 2011) 631 F.3d 1117, 1122.)

However, specific to Student's allegation, San Francisco team members with training or qualifications in deaf-blind education, tactile communication, and orientation and mobility attended the November 15, 2023, IEP team meeting, including:

- Gabrielle Massari, education specialist with a moderate/severe or extensive support needs credential;
- Toni Wong, education specialist with deaf and hard-of-hearing credential;
- Shannon Stice, education specialist with visual impairments credential; and
- Ellenie Lee, education specialist with visual impairments credential and an orientation and mobility specialist.

A credential for extensive support needs authorizes a teacher to, among other things, provide instruction and special education support to students with extensive support needs in kindergarten, including transitional kindergarten, and grades 1 through 12, through age 22, related to one or more of the following disabilities:

- autism;
- deaf-blind;
- emotional disturbance;

- intellectual disability;
- multiple disabilities;
- orthopedic impairment;
- other health impairment;
- specific learning disability; and
- traumatic brain injury.

(Cal. Code Regs., tit. 5, § 80048.6, subds. (b)(2) & (4).)

An extensive support needs education specialist provides intensive instruction and supports in two or more of the following domains:

- academics;
- communication;
- gross/fine motor;
- social-emotional;
- behavioral;
- vocational; and
- adaptive/daily living skills.

The supports also often include health, movement, and sensory support. Extensive support needs practices include a lower student-to-educator ratio. (See <https://www.ctc.ca.gov/program-sponsors/prep-programs/sped/mild-to-moderate-and-extensive-needs/>.)

The deaf and hard-of-hearing education specialist credential authorizes a teacher with that credential to teach students who are deaf, hard-of-hearing, or deaf-blind. But it does not authorize that teacher to provide instructional services to students with any other disabilities, apart from autism on credentials issued after 2009. (See Cal. Code Regs., tit. 5, §§ 80047 through 80047.9.)

The visual impairments education specialist credential authorizes a teacher with that credential to teach students who are visually impaired or deaf-blind. But it does not authorize that teacher to provide instructional services to students with any other disabilities, apart from autism on credentials issued after 2009. (See Cal. Code Regs., tit. 5, §§ 80047 through 80047.9.)

The four special education teachers at the November 15, 2023 IEP team meeting each held credentials authorizing them to teach and support students with deaf-blindness. Those four teachers collectively had appropriate training or qualifications in deaf-blind education, tactile communication, and orientation and mobility.

The November 15, 2023 IEP team meeting was attended by Parent, a general education teacher, multiple special education teachers and related services providers, and appropriately qualified school district representatives. The November 15, 2023, IEP team was properly constituted, and additionally contained people with specialized knowledge in Student's disabilities and related areas of educational need.

Even if the law did require some person with more specialized expertise in tactile communication than the four teachers whose credentials authorized them to educate students with deaf-blindness, Student's contention that the November 15, 2023, IEP team required a tactile communication expert was not supported by the evidence. It was not until March 2024, when Student's vision was examined under anesthesia by an

ophthalmologist, that her visual acuity was found to have substantially deteriorated and touch potentially became a significant component of Student's communication mode rather than a source of sensory stimulation. Parent did not share this information about Student's decreased visual acuity and San Francisco did not learn about it until over a year later.

It was not until San Francisco received a March 2025 progress note from Student's audiologist in spring 2025 that San Francisco was advised that because Student did not wear her hearing aids, "she should have consistent access to visual/tactile modes of communication." At that same time, Parent requested tactile communication as part of Student's program. San Francisco had no reason to invite a tactile communication expert to the November 15, 2023, IEP team meeting, and Parent did not choose to do so or request San Francisco to include one.

San Francisco did not deny Student a FAPE by failing at the November 15, 2023, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf/blind education, tactile communication, or orientation and mobility during the IEP development process.

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ISSUE 3: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE NOVEMBER 15, 2023 IEP TO OFFER NECESSARY SERVICES, SPECIFICALLY DEAF-BLIND INTERVENTION OR TACTILE COMMUNICATION INSTRUCTION?

Student contends San Francisco denied Student a FAPE by failing in the November 15, 2023, IEP to offer necessary services, specifically deaf-blind intervention or tactile communication instruction. Student focuses on the assertion that Student required a one-to-one aide who was fluent in ASL and was trained as an intervener for the deaf-blind, and that San Francisco did not have among its employees an aide who was fluent in ASL and had completed training to be a deaf-blind intervener.

San Francisco contends it offered a full-time one-to-one aide proficient in Student's modes of communication to facilitate continuous interaction, communication, and the transmission of information. San Francisco asserts the aide would have been continuously supervised, trained, and supported by the educators and service providers credentialed to serve students with deaf-blindness, especially the teacher of the deaf and hard-of-hearing. This would have enabled the aide to implement services designed to address Student's unique communication needs within the total communication framework reflected in the IEP. San Francisco argues it was not required to offer an aide with Parent's preferred criteria, and as Parent never consented to the November 15, 2023, IEP, whether it had an aide on staff is irrelevant to this hearing.

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. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314 (*Gregory K.*)). For a school district's offer of special education services to a disabled student to constitute a FAPE

under the IDEA, a school district's offer must be designed to meet the student's unique needs, comport with the student's IEP, and be reasonably calculated to provide the student with educational benefit appropriate in light of the student's circumstances, in the least restrictive environment. (*Ibid.*; *Endrew F.*, *supra*, 580 U.S. at pp. 402-403.)

Whether a student was offered or denied a FAPE is determined by looking to what was reasonable at the time the IEP was developed, not in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149 (*Adams*), citing *Fuhrman v. East Hanover Board of Educ.* (3d Cir. 1993) 993 F.2d 1031, 1041.)

An IEP need not conform to a parent's wishes to be sufficient or appropriate. (*Shaw v. District of Columbia* (D.D.C. 2002) 238 F.Supp.2d 127, 139 [IDEA did not provide for an "education ... designed according to the parent's desires."]; *J.R. v. Sylvan Union School Dist.* (E.D.Cal., March 10, 2008, No. CIV S-06-2136 LKK GGH PS) 2008 WL 682595, **10-11.) 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. (*Gregory K.*, *supra*, 811 F.2d at p. 1314; see also *Klein Independent School Dist. v. Hovem* (5th Cir. 2012) 690 F.3d 390, 396 ("An IEP need not be the best possible one, nor does it entitle a disabled child to a program that maximizes the child's potential."), cert. den. (2013) 568 U.S. 1231 [133 S.Ct. 1600]; see also *Bradley v. Arkansas Dept. of Educ.* (8th Cir. 2006) 443 F.3d 965, 975-976 (noting that the IDEA does not require a district to implement parental preferences, so long as the IEP offers FAPE).)

A school district has the right to select the program offered, if the program is able to meet the student's needs, and the district is ultimately responsible for ensuring a FAPE is offered. (*Letter to Richards* (United States Department of Education, Office of Special Education Programs, January 7, 2010).) The Ninth Circuit has held that while the

school district must allow for meaningful parental participation, it has no obligation to grant the parent a veto over any individual IEP provision. (*Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1131.)

THE NOVEMBER 15, 2023, IEP

At the November 15, 2023, IEP team meeting, San Francisco repeated its offer from the September 14, 2023, IEP. San Francisco offered Student 1,125 minutes of specialized academic instruction weekly in the Deaf Plus program classroom for third to fifth graders. The primary teacher would be an extensive support needs-credentialed teacher who therefore had the requisite training and experience to support a learner like Student, who was deaf-blind, had a medical diagnosis of profound intellectual disability, had orthopedic impairments, and who was medically fragile with other health impairments. Additionally, San Francisco was going to have a classroom aide to support the teacher and students, and offered Student a dedicated one-to-one aide for the full school day. The classroom aide and Student's one-to-one aide would work under the supervision and at the direction of the extensive support needs-credentialed teacher.

The full-time, one-to-one aide San Francisco offered was described as an individual aide for facilitating continuous interaction, communication, and the transmission of information per Student's needs, as identified by the IEP team, with proficiency in the modes of communication used by Student including ASL, augmentative and alternative communication, and aided language modeling. The individual aide was to assist with Student's feedings, toileting, health needs, mobility, access to the curriculum, and exposure to language. The individual aide was to participate in and complete ongoing intervener training in deaf-blindness to be knowledgeable and skilled in implementing a variety of techniques to be used to support a student with combined vision and hearing losses.

San Francisco offered Student 600 minutes weekly with a special education teacher with a credential for serving students who were deaf and hard-of-hearing, which included authorization to teach students who are deaf-blind. And San Francisco offered Student 600 minutes yearly with a special education teacher with a credential for serving students who had visual impairments, which included authorization to teach students who are deaf-blind.

San Francisco also offered Student these direct related services:

- Language and speech services from a credentialed speech-language pathologist for 30 minutes weekly individually and 30 minutes weekly in a group;
- Augmentative and alternative communication services from a credentialed speech-language pathologist experienced in augmentative and alternative communication, for 600 minutes yearly delivered individually or in a group, to include delivery in Student's classrooms as a "push-in" service and co-treatment with other service providers;
- Occupational therapy from a credentialed occupational therapist for 30 minutes weekly individually and 30 minutes weekly in a group;
- Physical therapy from a credentialed physical therapist for two 30-minute sessions individually, totaling 60 minutes weekly;
- Orientation and mobility training from a certified provider for 300 minutes yearly, at approximately 30 minutes each month delivered individually;

- Health and nursing services from a credentialed school nurse for 90 minutes yearly of consultation and training services provided to and for Student's health educationally related needs; and
- Curb to curb transportation.

San Francisco offered Student extended school year services.

San Francisco offered supplementary aids and services and other supports for Student and school staff including cross-disciplinary consultation. San Francisco offered Student these accommodations to the presentation of curriculum:

- Preferential seating that would be close to a speaker and demonstration materials, and allowing her the best auditory and visual access;
- Giving Student materials to view or allowing her to view materials before or after the group;
- Large print-letters, icons, pictures, photos that were at least two inches in size;
- Icons/pictures that were simple with high contrast background, and photos with a plain background;
- Hands-on experiences with real objects;
- Capturing Student's attention before speaking;
- Limiting background noise; and
- Giving Student "wait time" for processing.

San Francisco offered Student the accommodations of access to open space on the floor with appropriate padding such as a gym mat to take movement breaks during the day such as allowing Student to be on her hands and knees, rolling, lying down, and working with materials, and classroom/hallway space to accommodate for storage of Student's equipment such as her Rifton chair and stander.

San Francisco offered Student sensory accommodations and strategies to address concerns in tactile, proprioceptive, and vestibular processing, to be implemented with Student during the school day. These sensory accommodations and strategies could have included but were not limited to things like deep brushing and joint compression, heavy work and weightbearing activities on her upper extremities, and fine motor tasks incorporating a variety of textures.

San Francisco offered Student the accommodations of access to assistive technology equipment for augmentative and alternative communication, such as switch-operated voice output devices as needed, to be developed and reviewed by an augmentative and alternative communication specialist in collaboration with the classroom teacher and other IEP team members. San Francisco also offered "Aided Language Stimulation," which was for communication partners in her environment to model the use of visual symbols and/or augmentative and alternative communication devices during naturalistic communication opportunities.

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San Francisco offered Student alternative or modified curriculum. Student would be included in the general education setting for 60 minutes daily in activities such as recess, lunch, library, gardening, music, and computer lab.

San Francisco offered the following consultation and training to Student's educational team members:

- 600 minutes yearly of consultation between the teacher of the visually impaired and the educational team;
- 300 minutes yearly of consultation between the occupational therapist and the IEP team;
- 300 minutes yearly of consultation between the physical therapist and educational team;
- 300 minutes yearly, at a rate of approximately 30 minutes each month, of consultation between the classroom team and an individual with specialized training in feeding to support the team in implementing the feeding protocol designed for Student by California Children's Services, and could include a nurse, physical therapist, occupational therapist, and others;
- 30 minutes monthly of consultation between the orientation and mobility teacher and IEP team regarding environment adaptations, route planning, and other concerns;
- 60 minutes yearly of consultation between the educational audiologist and IEP team members to support Student's hearing equipment and accommodations; and

- 750 minutes yearly of training on augmentative and alternative communication to be provided by a credentialed speech-language pathologist to Student's teachers, staff, and team members, to include development of materials such as two-dimensional and tactile symbols, setting up and maintaining technology, and participation planning with team members to facilitate Student's generalization of communication skills.

DEAF-BLIND INTERVENTION

As of November 15, 2023, the information available to San Francisco showed Student was deaf-blind, communicated through five expressive ASL signs or sign approximations, and otherwise used facial expressions, vocalizations, body movements, and some gestures to express her wants and needs. Parent had reported Student receptively understood 30 to 40 ASL signs, but no persuasive evidence in that regard was presented to the November 15, 2023, IEP team or at hearing.

Student had orthopedic impairments that significantly interfered with her ability to communicate expressively by making the hand shapes and motions of ASL. Instead, Student was a multi-modal communicator who primarily used pre-symbolic behaviors to communicate, such as casting her gaze toward or reaching for things she wanted, and pushing away things she did not want. Receptively, Student's ability to perceive ASL as a language was significantly limited by her ability to see hand shapes and movements due to her visual impairments, and her ability to understand symbolic language due to her medically diagnosed profound intellectual disability.

The November 15, 2023, IEP specifically addressed Student's difficulties with expressive and receptive communication by offering Student 1,725 minutes weekly of intensive individual services, documented as:

An individual aide for facilitating continuous interaction, communication, and the transmission of information per [Student's] needs ... with a proficiency in the mode(s) of communication used by [Student], including ASL, [augmentative and alternative communication], and aided language modeling. The individual aide will ... complete ongoing, intervener training in deafblindness.

Student argues that the offer was insufficient, as Parent preferred an ASL-proficient and already-trained intervener for the deaf-blind.

Although Student proffered evidence that an ASL-proficient aide trained as a deaf-blind intervener can be an effective support for educating deaf-blind students without intellectual disabilities, Student's evidence was lacking in information regarding the efficacy of an ASL-proficient deaf-blind intervener for students with cognitive impairment, particularly profound intellectual disability. Student's expert Linda Alsop, M.Ed. had long been an advocate for a national credentialing program for interveners, including an ASL-proficiency, but neither the IDEA nor California law have recognized the distinct role of "intervener" or adopted a credentialing requirement for interveners. More importantly, the evidence did not establish that Student required an aide fluent in ASL or trained as a deaf-blind intervener to obtain educational benefit appropriate in light of her circumstances.

San Francisco offered Student an educational program designed to encourage and support her emerging skills in communication and language. It offered Student the opportunity to develop expressive and receptive communication through any and all means, in an environment designed around the total communication method. The November 15, 2023, IEP offered Student instruction from three categories of education specialists trained and credentialed to educate students who were deaf-blind, one of whom was also trained to educate students with intellectual disabilities, multiple disabilities, orthopedic impairments, and other health impairments. The IEP included a full-time, one-to-one aide with proficiency in Student's modes of communication including ASL, augmentative and alternative communication, and aided language modeling. San Francisco offered Student sensory accommodations and strategies to address concerns in tactile and other senses, such as movement and balance, and assistive technology equipment for augmentative and alternative communication. Student failed to prove these services and accommodations were not reasonably calculated to enable Student to obtain educational benefit appropriate in light of her deaf-blindness.

Student argues San Francisco would not have had an ASL-proficient aide available if Parent had consented to the November 15, 2023, IEP. However, that would be an implementation issue, and Parent never consented to the November 15, 2023, IEP obligating San Francisco to implement it. Student cites absolutely no legal authority for her argument that an offer of FAPE was deficient if it appeared the school district would have difficulty implementing it. And, as explained above regarding the issues for hearing, "implementation" was not an issue in this case.

Parent wanted a program for Student that looked a particular way, which she thought would be best for Student. She was pleased with the deaf and hard-of-hearing preschool program at CEID, from a time when Student's residual hearing was better, she used hearing aids, and Student's vision was better. CEID was a total communication classroom using auditory and visual supports, ASL, sign-supported English, augmentative and alternative communication, and individualized efforts to communicate with and develop the expressive communication skills of each student had allowed Student to make educational progress. But CEID's program was labeled as being for Deaf and hard-of-hearing students and had a full-time teacher of the deaf and hard-of-hearing leading the class. Parent liked that it was a program with that classification, and Parent sought that label in Student's later schooling. Parent was frustrated school districts were not offering Student a program explicitly labeled as being for Deaf and hard-of-hearing students, and later, labeled as being for deaf-blind students.

Over time, Student got different styles of hearing aids, which Parent reported worked better than Student's earlier technologies. But Parent and Student "got out of the habit during and after the [COVID-19] quarantine" of wearing Student's most recent and helpful hearing aid style. During the period at issue in this case, Student did not tolerate wearing hearing aids. At the same time, Student's hearing tests indicated some decline.

Student's vision had also declined over time. Although she wore glasses, she had low vision due to a combination of multiple ophthalmic conditions that impaired her vision. She tended to tilt her head to the left to see something through her peripheral vision, but the functional use of her peripheral vision was inconsistent. When reaching for an object, she often looked away before reaching, relying on touch rather than vision.

Parent repeatedly requested Student be educated in what she called a signing environment and supported by an ASL-fluent intervener for the deaf-blind. And Parent repeatedly mischaracterized or exaggerated San Francisco's statements disagreeing with her to paint San Francisco administrators and staff in a bad light, which adversely impacted her credibility. However, the weight of the evidence did not show that Student needed an ASL-fluent intervener to benefit from her education, even if Student might possibly have received more benefit with Parent's preferred methodology of an intervener for the deaf-blind.

The evidence established Parent had clear preferences for methodologies and labels on environments for educating Student. Whenever San Francisco did not offer exactly what Parent wanted, she refused to send Student to school in San Francisco. Parent did not consent to the November 15, 2023, IEP, and testified she was fearful of sending Student to the offered program because, as a deaf-blind child, Student would be left isolated and unable to communicate her wants and needs without an ASL-proficient intervener. Parent's statement was contradicted by the fact that after the November 15, 2023, IEP, Parent enrolled Student in a nonpublic school that did not provide an ASL-proficient teacher, aide, or deaf-blind intervener. Parent made clear at hearing she did not think the lack of those supports was best for Student, but Student attended the nonpublic school from February 2024 through August 2025.

Student failed to establish by a preponderance of the evidence that she would not have received educational benefit appropriate in light of her circumstances under the November 15, 2023, IEP's offer because it lacked necessary deaf-blind intervention.

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TACTILE COMMUNICATION INSTRUCTION

Student describes tactile communication instruction as “an adjunct issue to the need for an ASL proficient intervener but critical” and contends because the November 15, 2023, IEP did not contain a specific, direct, tactile communication instruction service, it failed to offer the direct tactile communication that was Student’s preferred form of communication. Student argues that without adults who understood tactile communication, Student would be unable to communicate distress, such as hunger or pain or “when the inevitable medical event would occur.”

The evidence did not establish Student communicated hunger or pain or distress through tactile communication as of November 15, 2023, or thereafter. The evidence also did not establish Student was unable to communicate distress to others around her through multiple modes of communication she regularly used, including vocalizations, body movements, gestures, and eye gaze. Also, as discussed at Issue 2, tactile communication was not explicitly recommended for Student by her audiologist or requested by Parent until March 2025, well after the November 15, 2023, IEP. Parent unilaterally placed Student at a nonpublic school without a tactile communication specialist from February 2024 to August 2025, and the evidence did not show that Student was unable to communicate hunger, pain, or any other distress by other means during that time.

In summary, Student failed to prove by a preponderance of the evidence that San Francisco denied her a FAPE in the November 15, 2023, IEP by failing to offer necessary services, specifically deaf-blind intervention and tactile communication.

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ISSUE 4: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE NOVEMBER 15, 2023, IEP TO OFFER ESSENTIAL GOALS, SERVICES, SUPPORTS, AND SAFETY PLANNING TO ENSURE ACCESS TO HER CLASSROOM ENVIRONMENT, CURRICULUM, AND PEERS?

Student contends San Francisco denied Student a FAPE by failing in the November 15, 2023, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers. Student's amended complaint did not specifically identify the November 15, 2023, IEP as an IEP Student was challenging, and included specific allegations only starting with the May 21, 2025, IEP. The gravamen of Student's Issue 4 is not the November 15, 2023, IEP's goals in and of themselves, but the assertion the November 15, 2023, IEP did not offer components necessary to ensure Student's access to her classroom environment, curriculum, and peers.

Student's written closing argument attempted to expand this issue to concern the absence of goals generally, and in five specific areas never alleged in the amended complaint. The ALJ denies Student's attempt to expand the scope of Issue 4. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

Student's contention San Francisco did not offer sufficient resources to ensure access to her classroom environment, curriculum, and peers is duplicative of Issue 3a regarding deaf-blind intervention by a person in the role of an intervener, which Student asserts was necessary for her to access to her classroom environment, curriculum, and peers. Student also contends that the teacher of the deaf and hard-of-hearing was not

full-time in conjunction with the extensive support needs teacher, denying Student a language-rich environment, and San Francisco offered insufficient nursing supports to keep Student medically safe.

San Francisco contends Student failed to explain at hearing what additional goals, services, supports, or safety measures were allegedly required for Student to access her classroom environment, curriculum, and peers. San Francisco asserts it offered Student a uniquely individualized and interdisciplinary educational program tailored to the interaction of all her disabilities that afforded her a FAPE including access to her classroom environment, curriculum, and peers.

The educational benefit to be provided to a child requiring special education is not limited to addressing the child's academic needs, but also social and emotional needs that affect academic progress, school behavior, and socialization. (*County of San Diego v. California Special Educ. Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467.) A child's unique needs are to be broadly construed to include the child's academic, social, health, emotional, communicative, physical, and vocational needs. (*Seattle School Dist. No. 1 v. B.S.* (9th Cir. 1996) 82 F.3d 1493, 1500, citing H.R. Rep. No. 410, 1983 U.S.C.C.A.N. 2088, 2106, reversed in part on other grounds by *Schaffer, supra*, 546 U.S. 49, 56-58.))

The current dispute regarding nursing services began during the September 14, 2023, IEP team meeting. Initially San Francisco said it was offering 1,715 minutes weekly – meaning the full school day every school day – direct nursing support for any of Student's chronic health issues. Additionally, San Francisco offered 90 minutes yearly

indirect nursing services for training of other staff and supervision of Student's seizure precautions, seizure rescue medication administration, and maintenance of Student's health care plan.

But San Francisco's nursing supervisor, Desta White, R.N., and credentialed school nurse, was surprised by the description and offer from the prior school district because San Francisco did not use licensed nurses to just sit by a student in case something happened. San Francisco included in IEPs an offer of direct services for a nurse only to perform a procedure or function that required a nursing license, such as catheterization, ventilator services, addressing needs related to a student having a tracheostomy, or possibly feeding through a gastrostomy tube. San Francisco received information from a student's medical providers about the procedures a student required during the school day from a licensed nurse and then included in the student's IEP the number of direct nursing service minutes those procedures from a licensed nurse would require. San Francisco used licensed nurse employees or contracted licensed nurses to perform the procedures that required a nursing license.

Otherwise, San Francisco provided training and supervision to teachers and classroom and school staff to have them educated about the child's needs and trained to perform health-related functions for which a nursing license was not required.

Parent was fearful Student could choke, stop breathing, or be in other distress and no one in the classroom or nearby would know how to resuscitate Student. Parent wanted a nurse in Student's classroom at all times or in the vicinity of her classroom to keep Student safe while away from Parent for eight or nine hours a day. Nursing supervisor White explained Parent's concern about Student's safety would be addressed through training for staff so that in the event of a medical emergency, they were trained

to respond right away and work together to communicate with the school nurse at the school site or at times one was not there, with the nursing supervisor who oversaw nursing services centrally.

The Deaf Plus classroom would have as the primary teacher a special education teacher with a credential for serving students with extensive support needs. The teacher of the Deaf Plus classroom therefore had the requisite training and experience to support a learner like Student, who was deaf-blind, had a medical diagnosis of profound intellectual disability, had orthopedic impairments, and who was medically fragile with other health impairments. Additionally, San Francisco was going to have a classroom aide to support the teacher and students, and offered Student a dedicated one-to-one aide for the full school day, both of whom would work under the supervision and at the direction of the extensive support needs-credentialed teacher.

The evidence did not establish San Francisco had received any medical orders from Student's doctors before February 10, 2026, years after the November 15, 2023, IEP team meeting. Furthermore, the documentation from Student's doctors dated February and March 2026 did not in fact state Student required any procedures for which a nursing license was required. The letter from Student's pediatric pulmonologist stated Student needed "medical observation" by a nurse and possible oral suctioning, and referred to a "Management of Tracheostomy in Educational Settings document," which was not in evidence. Student did not have a tracheostomy.

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At the September 14 and November 15, 2023, IEP team meetings, Parent objected to San Francisco offering no direct nursing services to Student but only training and supervision of other school employees. San Francisco maintained its offer of 90 minutes yearly of health and nursing services from a credentialed school nurse for consultation and training regarding Student's health educationally related needs.

The evidence established the Deaf Plus program was designed to provide students who had total communication needs with targeted supports and instruction. The program was described as helping students access learning and social opportunities by teaching and promoting access to learning through all communication modalities:

- Sign language;
- Spoken language;
- Augmentative and alternative communication;
- Gestures;
- Body language;
- Writing; and
- Drawing.

These modalities covered all of Student's modes of expressive and receptive communication in November 2023. The program was also described as helping students access learning and social opportunities by:

- Incorporating universal communication supports within the classroom environment designed to address students' unique communication needs;

- Implementing evidence-based practices for targeted skill development and to improve access to learning and independence; and
- Collaborating with related service providers for staff training/consult to support generalization of skills.

Student's unique cognitive and physical challenges would benefit from universal communication supports, targeted skills development, and collaboration among Student's service providers to generalize learning across environments.

San Francisco's November 15, 2023, IEP offer consisted of instruction from teachers with credentials for extensive support needs, deaf and hard-of-hearing, and visually impaired, the three categories of education specialists trained and qualified to educate students who were deaf-blind. The Deaf Plus classroom for third to fifth graders had five students, and five paraprofessionals, in addition to the extensive support needs special education teacher. The teacher and each one-to-one aide was able to use high-frequency classroom ASL signs, ensuring Student would have received a significant level of instruction to support her interaction with the classroom lessons and her classmates. The teacher of the deaf and hard-of-hearing was in the third-to-fifth-grade classroom about half of each day, to work with students and staff and address the communication needs of the students.

San Francisco offered Student a full-time, one-to-one aide with proficiency in Student's modes of communication, including ASL, augmentative and alternative communication, and aided language modeling. These supports would have enabled Student to access the classroom and curriculum, and to interact with her classmates.

The one-to-one aide would also have accompanied Student in general education, during recess, and during breaks, to facilitate interaction and communication with typically developing peers.

The November 15, 2023, IEP offered Student many accommodations for presentation of curriculum designed to give her access to the curriculum. It offered sensory accommodations and strategies to address concerns in Student's tactile, movement, and balance processing. It offered assistive technology equipment for augmentative and alternative communication, and open space with appropriate padding for Student to have movement breaks, lie down, and roll around, as well as space to accommodate her mobility equipment.

The November 15, 2023, IEP offered teacher and staff training by a school nurse regarding Student's medical needs, precautions, and interventions for seizures or other health events. It offered consultation between the classroom team and an individual with specialized training in feeding to support the team in implementing Student's feeding protocols. Although Student asserts all other previous districts and schools had insisted on providing Student a full-time nurse, at least on a shared two-to-one basis, the evidence did not establish Student required a licensed nurse at all times while at school for her safety.

The November 15, 2023, IEP offered consultation between the orientation and mobility teacher and the IEP team regarding environment adaptations and route planning. It offered consultation between the teacher of the visually impaired, the occupational therapist, the physical therapist, the educational audiologist, and the other members of the educational team.

All of these personnel, their specialized training and knowledge, and plans for collaboration were reasonably calculated to confer educational benefit to Student appropriate in light of her circumstances and were adequate to afford Student access to her classroom environment, curriculum, and peers.

Student failed to prove by a preponderance of the evidence that San Francisco failed in the November 15, 2023, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

ISSUE 5: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING BETWEEN NOVEMBER 15, 2023, AND MAY 21, 2025, TO CONDUCT OR INCORPORATE APPROPRIATE ASSESSMENTS, INCLUDING A COMMUNICATION ASSESSMENT OR ASSISTIVE TECHNOLOGY ASSESSMENT?

Student contends San Francisco was obligated to assess Student between November 15, 2023, and the time it conducted three-year-review assessments of Student before the May 21, 2025, IEP, especially in the areas of communication or assistive technology, and denied Student a FAPE by failing to do so.

In her written closing argument, Student complains and argues San Francisco denied Student a FAPE because San Francisco did not:

- Conduct an appropriate assessment of Student's communication in the May 2025 three-year-review assessment because it failed to include consideration of Student's tactile communication needs;

- Timely complete a “functional vision assessment” Student asserts was called for on the January 21, 2025, assessment plan; and
- Assess Student in all areas of suspected disability in the May 2025 three-year-review assessment by failing to conduct an assistive technology assessment.

None of these claims were pleaded or identified in Student’s amended complaint.

The gravamen of Student’s Issue 5 is not the appropriateness, timeliness, or existence of any category of the three-year-review assessments San Francisco conducted in spring 2025, but rather, the assertion that San Francisco should have\ conducted some but did not conduct any assessments of Student after the three-year-review assessments in spring 2022. Issue 5 is specifically bracketed by the time after the November 15, 2023, IEP and before May 21, 2025. Student’s written closing argument attempts to expand Issue 5 to concern claims not alleged, or even generally identified, as an issue in Student’s amended complaint. The ALJ denies Student’s attempt to expand the scope of Issue 5. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

San Francisco contends it conducted a comprehensive three-year-review evaluation of Student before the May 21, 2025, IEP team meeting, thoroughly reviewed the assessments with the IEP team, and incorporated the results into the IEP it offered Student. San Francisco argues it proposed in November 2024 to assess Student before her three-year-review reevaluation was due in April 2025, but Parent refused, and San Francisco therefore did not deny Student a FAPE by failing to assess Student in

communication or assistive technology between the April 2022 three-year-review evaluation and the three-year-review evaluation in spring 2025, and specifically between November 15, 2023, and May 21, 2025.

EVENTS AFTER THE NOVEMBER 15, 2023, IEP OFFER

In February 2024, Parent privately enrolled Student at a local nonpublic school.

From May 2024 through January 2025, San Francisco corresponded with Parent about scheduling an annual IEP team meeting for Student, and about whether Parent wanted Student's three-year-review, due April 2025, to occur earlier. Parent repeatedly declined "early" reassessment.

On January 22, 2025, San Francisco sent Parent an assessment plan proposing to evaluate Student for her three-year-review reevaluation in April 2025 in the following areas:

- Academic achievement;
- Health;
- Intellectual development;
- Language/Speech communication development;
- Motor development;
- Social emotional/behavior;
- Adaptive behavior;

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- Audiological assessment; and
- Other, described as “authentic assessments,” observations and/or parent questionnaire, and intensive individual services assessment to assess whether Intensive Individual Services, meaning an aide, were required for educational benefit.

On February 20, 2025, Parent returned her signed consent on the January 21, 2025, assessment plan. San Francisco had also requested release of information authorizations for Student’s nonpublic school and doctors, but Parent did not complete the forms.

Instead, Parent asked that she be sent separate release of information authorization forms for each specific entity San Francisco wished to contact. Ultimately, Parent signed releases for San Francisco to contact the nonpublic school and Student’s audiologist.

Over time, Parent had been investigating schools for Student inside and outside of California. None of the schools she contacted had a program specifically for a deaf-blind student who also had intellectual disability and/or medical complexity except Perkins School for the Blind in Massachusetts, called Perkins, which was certified by the California Department of Education as a nonpublic school. Parent contacted Perkins and began the process of applying for Student to attend.

Based on records Parent provided to Perkins, Perkins required Student to undergo and provide the medical report for a clinical swallow evaluation to assess her safety. In March and April 2025, Student underwent two different types of medical

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examinations related to swallowing. The doctor and speech-language pathologist who evaluated Student reported that no barriers to education were identified. Parent sent Perkins the medical reports, and San Francisco eventually received them, too.

In April and May 2025, Parent authorized Student's occupational and physical therapy providers, and Student's vision, audiological, and other medical providers to release information to San Francisco. Parent provided a list of Student's 19 individual medical and dental providers. As part of San Francisco's health assessment of Student, Parent reported to a school nurse that Student had not experienced any recent episodes of aspiration or breathing emergencies.

Based on Parent interview and medical information San Francisco obtained, San Francisco completed the health assessment. It documented Student's health history, her need for assistance and supervision, and that the school district nurse was responsible for training, monitoring, and supervising designated staff. Trained school personnel and licensed healthcare personnel were not identified in the health assessment pending the upcoming IEP team meeting.

The assessments by the school psychologist, education specialist, occupational therapist, physical therapist, speech-language pathologist, and audiologist were all documented in a Multidisciplinary Report dated May 5, 2025, although a later version bearing the same date was also created and in evidence, including additional information the speech-language pathologist received from Parent.

The assessment by two school district nurses was documented in a Health Assessment report dated May 2, 2025. The examination by an orientation and mobility teacher, a teacher of the visually impaired, done on March 14, 2025, was documented in

an undated Orientation and Mobility report. The assessment by the teacher of the deaf and hard-of-hearing was documented in an undated, uncaptioned document signed by the itinerant teacher of the deaf.

At an IEP team meeting on May 21, 2025, the IEP team reviewed the results of the assessments by:

- the teacher of the deaf and hard-of-hearing;
- the speech-language pathologist;
- a teacher of the visually impaired regarding orientation and mobility;
- the physical therapist;
- the occupational therapist;
- the school psychologist;
- the special education content specialist regarding Student's need for intensive individual services/a one-to-one aide; and
- the school district nurse who also was the nursing supervisor.

On May 28, 2025, the IEP team reconvened and reviewed the results of an audiologist's assessment and preliminary impressions based on the data reviewed to date by another teacher of the visually impaired.

As explained in Issue 1, San Francisco conducted a three-year-review assessment of Student in April 2022, and Student's next three-year-review assessment was not due until April 2025. San Francisco was not required to conduct a reevaluation of Student in less than three years from April 2022 unless it determined Student's educational or related

services needs, including improved academic achievement and functional performance, warranted a reassessment, or if Parent or a teacher requested a reassessment.

Here, for the period between November 15, 2023, and May 21, 2025, San Francisco determined Student's educational or related services needs warranted a reassessment in November 2024, and it proposed to conduct Student's three-year-review assessments earlier than required. However, Parent declined an early three-year-review assessment, and did not sign an assessment plan until February 20, 2025. Neither Parent nor a teacher requested an assessment in the interim. San Francisco was not required to conduct an assessment any earlier than the three-year-review assessment consented to by Parent on February 20, 2025.

Student did not prove there was, at any time between November 15, 2023, and May 21, 2025, a request for a communication assessment or an assistive technology assessment by Parent or a teacher. San Francisco did not determine that either assessment was required prior to, or separate from, the three-year-review assessment consented to by Parent on February 20, 2025. Accordingly, Student did not prove that San Francisco failed between November 15, 2023, and May 21, 2025, to conduct a communication or assistive technology assessment.

Student failed to prove by a preponderance of the evidence that San Francisco denied Student a FAPE by failing between November 15, 2023, and May 21, 2025, to conduct or incorporate appropriate assessments, including a communication or assistive technology assessment.

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ISSUE 6: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE MAY 21, 2025, IEP TO OFFER NECESSARY SERVICES, SPECIFICALLY DEAF-BLIND INTERVENTION OR TACTILE COMMUNICATION INSTRUCTION?

Student contends San Francisco denied Student a FAPE by failing to offer necessary services, specifically deaf-blind intervention or tactile communication instruction, in the May 21, 2025, IEP. Student focuses on the assertion that Student required a one-to-one aide who was fluent in ASL and trained as an intervener for the deaf-blind, and that San Francisco did not have among its employees an aide who was fluent in ASL and had completed training to be a deaf-blind intervener.

San Francisco contends it offered a full-time one-to-one aide proficient in Student's modes of communication to facilitate continuous interaction, communication, and the transmission of information. San Francisco asserts the aide would have been continuously supervised, trained, and supported by the educators and service providers credentialed to serve students with deaf-blindness, especially the teacher of the deaf and hard-of-hearing, and would have implemented services designed to address Student's unique communication needs within the total communication framework reflected in the IEP. San Francisco argues it was not required to offer an aide with Parent's preferred criteria.

Student's IEP team met on May 21 and 28, 2025, and San Francisco's offer was finalized in an IEP dated May 21, 2025. Student was about to turn 13 years old, but was small in stature with significant movement limitations, and had significant hearing loss, significant vision loss, and profound cognitive impairment. She needed a small student-

to-teacher ratio and class using multi-modality communication to provide access to communication and support her physical and cognitive needs. She needed intensive individual support to be safe, have curriculum adaptations to participate in general classroom activities, and specialized activities designed to meet her individual needs. She had severe receptive and expressive communication delay, which impacted her ability to participate in activities, social interactions, and advocate for her wants and needs.

The May 21, 2025, IEP offered Student 1,125 minutes a week of specialized academic instruction in a district middle school classroom for students with a broad variety of extensive support needs, headed by a teacher with an extensive support needs education specialist credential. San Francisco also proposed Student spend some time in a classroom on the same campus for deaf and hard-of-hearing students who were working at or near grade level for socialization with peers who communicated using ASL. San Francisco offered Student recess, lunch, and some other time in the general education setting totaling 17 percent of her school week.

The full-time, one-to-one aide San Francisco offered was described as an individual aide for facilitating continuous interaction, communication, and the transmission of information per Student's needs, as identified by the IEP team, with a proficiency in the modes of communication used by Student including ASL, augmentative and alternative communication, and aided language modeling. The individual aide was to assist with Student's feedings, toileting, health needs, mobility, access to the curriculum, and exposure to language. The individual aide was to participate in and complete ongoing, intervener training in deaf-blindness to be knowledgeable and skilled in implementing a variety of techniques to be used to support a student with combined vision and hearing losses.

San Francisco offered Student 180 minutes weekly with a special education teacher with a credential for serving students who were deaf and hard-of-hearing. The deaf and hard-of-hearing education specialist credential authorized the teacher to teach students who were deaf, hard-of-hearing, or deaf-blind. The purposes noted for the weekly service minutes were for deaf-blind education, language development, and ASL and tactile communication development.

San Francisco offered Student 600 minutes yearly with a special education teacher who held a credential for serving students who had visual impairments. Unlike other special education and related services offered from May 21, 2025, through May 20, 2026, this offer was for September 14, 2023, through September 13, 2024. This appeared to be a carryover from the September 14, 2023, IEP and served as a placeholder. The notes of the May 28, 2025, IEP team meeting stated the teacher of the visually impaired anticipated providing roughly 60 to 90 minutes, seemingly per month, through multiple sessions per week in the classroom, but would have something more specific after observation. This was noted to be in addition to the consultation service stated below.

San Francisco also offered:

- Language and speech services for 30 minutes weekly individually and 30 minutes weekly in a group;
- Occupational therapy for 30 minutes weekly individually, either as a push-in service to her individually while she was working in a small group setting in her classroom, or individually in her classroom, or as a pull-out service based on Student's needs that day and the focus of the session;

- Physical therapy for 45 minutes individually, either as a push-in or pull-out service depending on Student's needs to work toward her functional mobility goal;
- Orientation and mobility training individually for 30 minutes weekly;
- Health and nursing services for 90 minutes yearly of consultation and training services provided to and for Student's health educationally related needs; and
- Transportation.

San Francisco offered Student extended school year services.

San Francisco offered supplementary aids and services and other supports for Student and school staff including cross-disciplinary consultation. To directly aid Student, San Francisco offered Student these accommodations to the presentation of curriculum:

- Preferential seating that would be close to a speaker and demonstration materials, and allowing her the best auditory and visual access;
- Giving Student materials to view or allowing her to view materials before or after the group;
- Large print-letters, icons, pictures, photos that were at least two inches in size;

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- Icons/pictures that were simple with high contrast background, and photos with a plain background;
- Hands-on experiences with real objects;
- Capturing Student's attention before speaking;
- Limiting background noise; and
- Giving Student "wait time" for processing.

San Francisco offered Student the accommodations of access to open space on the floor with appropriate padding such as a gym mat to take movement breaks during the day such as allowing Student to be on her hands and knees, rolling, lying down, and working with materials, and classroom/hallway space to accommodate for storage of Student's equipment such as her Rifton chair and stander. San Francisco also offered access to adaptive equipment such as a gait belt, adaptive chair, stander, and gait trainer to be able to access various activities with optimal positioning to encourage modified independence.

San Francisco offered Student sensory accommodations and strategies to address concerns in tactile, movement, and balance processing, to be implemented with Student during the school day. San Francisco offered access to assistive technology equipment for augmentative and alternative communication across class and school settings. San Francisco also offered "Aided Language Stimulation."

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San Francisco offered Student alternative or modified curriculum.

San Francisco offered the following consultation and training to Student's educational team members:

- 600 minutes yearly of consultation between the teacher of the visually impaired and the educational team, at a rate of approximately 60 minutes per month;
- 300 minutes yearly of consultation between the occupational therapist and the IEP team;
- 300 minutes yearly of consultation between the physical therapist and the educational team to train on use and maintenance of equipment as well as positioning and facilitation to promote optimal alignment when engaging in activities. The physical therapist also would collaborate with school staff and outside service providers to work on carryover of skills across settings;
- 300 minutes yearly, at a rate of approximately 30 minutes each month, of consultation between the classroom team and an individual with specialized training in feeding to support the team in implementing the feeding protocol designed for Student by California Children's Services, and could include a nurse, physical therapist, occupational therapist, and others;
- 30 minutes monthly of consultation between the orientation and mobility teacher and IEP team regarding environment adaptations, route planning, and other concerns;

- 60 minutes yearly of consultation between the educational audiologist and IEP team members to support Student's hearing loss and accommodations;
- 750 minutes yearly of training on augmentative and alternative communication to be provided by a credentialed speech-language pathologist experienced in augmentative and alternative communication to include training of Student's teachers, staff, and team members, development of materials such as two-dimensional and tactile symbols, setting up and maintaining technology, and participation planning with team members to facilitate Student's generalization of communication skills; and
- 60 minutes weekly consultation between the teacher of the deaf and hard-of-hearing and the IEP team.

Some of the goals developed for Student explicitly called for their achievement within one year by using materials, symbols, objects, and adult support in a total and tactile communication approach, with tactile sign and modified sign support. The goals sought to increase consistent use of communication tools in a total and tactile communication approach. The personnel responsible for the three goals were the teacher of the deaf and hard-of-hearing and IEP team. This signaled that everyone working with Student would be included in supporting total and tactile communication strategies for Student.

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Parent did not consent to the May 21, 2025, IEP and maintained Student at the nonpublic school through August 2025, when she withdrew Student in anticipation of a major spinal surgery that ultimately did not happen until November 2025. Parent did not return Student to school through the time of the due process hearing.

DEAF-BLIND INTERVENTION

By the May 28, 2025, IEP team meeting, when the May 21, 2025, IEP was finalized, San Francisco had reevaluated Student and was aware Student was deaf-blind, communicated through five expressive ASL signs or sign approximations, and otherwise used facial expressions, vocalizations, body movements, and some gestures. Expressively, Student had orthopedic impairments that interfered with her ability to make certain hand shapes and motions of ASL. Student communicated primarily through pre-symbolic behaviors, was classified as nonverbal, and relied on multiple modalities for intentional communication. Receptively, Student's ability to perceive ASL was significantly limited by her visual impairments, and her ability to understand ASL was significantly limited by her diagnosed profound intellectual disability.

Student exhibited recognition of photos and objects that signaled routine events such as drinking milk when she saw her bottle or eating when she saw her food. She looked at an iPad when a story or song was presented to her and she sometimes patted the screen, but she did not yet use the device to gain a reaction from cause-and-effect games. She looked at high-saturation, high-contrast visual symbols presented on a Velcro board along with real object photographs of items representative of her schedule. She was beginning to scan the board between more than one symbol or photo.

San Francisco offered Student a full-time one-to-one aide to facilitate continuous interaction, communication, and the transmission of information according to Student's needs. The aide was described as proficient in Student's modes of communication and would undergo intervener training in deaf-blindness. Student argues that the offer was insufficient, as Parent preferred an ASL-proficient and already-trained intervener for the deaf-blind.

The evidence did not establish that Student required an aide fluent in ASL and/or trained as a deaf-blind intervener to obtain educational benefit appropriate in light of her circumstances in May 2025.

The May 21, 2025, IEP offered Student an educational program designed to encourage and support her then-emerging skills in communication and language. It offered Student the opportunity to develop expressive and receptive communication through any and all means, in an environment designed around the total communication method and, beginning in the May 21, 2025, IEP, also expressly including tactile communication. The May 21, 2025, IEP offered Student instruction from three categories of education specialists trained to educate students who were deaf-blind. One of those education specialists was also trained to educate students with intellectual disabilities, multiple disabilities, orthopedic impairments, and other health impairments, and able to account for the physical and cognitive effects of Student's disability that could also create barriers to Student's access to her education, communication, and the environment.

The IEP included a full-time, one-to-one aide with proficiency in Student's modes of communication including ASL, augmentative and alternative communication, and aided language modeling, who would be trained and supported by the teacher of the deaf and hard-of-hearing, extensive support needs teacher, and teacher of the visually

impaired. San Francisco offered Student assistive technology equipment for augmentative and alternative communication to support Student's communication development in consideration of her deaf-blindness.

Student argues that the May 21, 2025, offer was insufficient, as Parent preferred an ASL-proficient and already-trained intervener for the deaf-blind. As explained in Issue 3, Student proffered no evidence regarding the efficacy of an ASL-proficient deaf-blind intervener for students with cognitive impairment, particularly profound intellectual disability. And the evidence did not establish that Student required an aide fluent in ASL or trained as a deaf-blind intervener to obtain educational benefit appropriate in light of her circumstances as of May 2025, even if Student might possibly have received more benefit with Parent's preferred methodology.

Student again argues San Francisco would not have had an ASL-proficient aide available if Parent had consented to the May 21, 2025, IEP. However, that would be an implementation issue, and Parent never consented to the May 21, 2025, IEP obligating San Francisco to implement it. Implementation was not an issue in this case. And Student failed to cite authority for her argument that an offer of FAPE is deficient if it appears the school district will have difficulty implementing it.

Student failed to establish by a preponderance of the evidence that she would not have received educational benefit appropriate in light of her circumstances under the May 21, 2025, IEP's offer regarding the multiple special education teachers qualified to educate and serve students who are deaf-blind, along with a one-to-one aide for the purposes described in the May 21, 2025, IEP.

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TACTILE COMMUNICATION INSTRUCTION

Student contends because the May 21, 2025, IEP did not contain an instructional service specifically addressing tactile communication, it failed to offer instruction in the direct tactile communication that was Student's preferred form of communication. Student argues without adults who understood tactile communication, Student would be unable to communicate medical distress and real harm to Student was likely.

The evidence established the teacher of the deaf and hard-of-hearing and May 21 and 28, 2025, IEP team member, Janna Rudolph, was exceptionally well qualified and, in particular, had at the time of the May 2025 IEP team meetings over 10 years of specific training in tactile communication for the deaf-blind. Rudolph explained to the May 21 and 28, 2025, IEP team meetings, and at the due process hearing, that she had included reference to tactile communication in Student's communication goals to ensure Student would receive instruction in tactile communication during speech services, and across settings in support of those goals. The teacher of the visually impaired concurred, and explained to the IEP team that tactile communication would be included in the goals and teaching approaches used with Student, focusing on tactile schedules and calendars, and working on tactile discrimination strategies.

The May 21, 2025, IEP offered Student three hours per week of direct, individual work addressing Student's language development with ASL and tactile communication development, along with 60 minutes weekly of consultation between the teacher of the deaf and hard-of-hearing working with Student and the rest of Student's IEP team to support Student using the same signs and strategies. Student failed to prove the communication goals for tactile communication with the services offered in the

May 21, 2025, IEP to support Student's progress in tactile as well as total communication were not reasonably calculated to enable Student to make communication progress appropriate in light of her circumstances as of May 2025.

Student failed to prove by a preponderance of the evidence that San Francisco failed in the May 21, 2025, IEP to offer necessary services, specifically deaf-blind intervention and tactile communication, that she required to receive a FAPE.

ISSUE 7: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE MAY 2, 2025 IEP TO OFFER ESSENTIAL GOALS, SERVICES, SUPPORTS, AND SAFETY PLANNING TO ENSURE ACCESS TO HER CLASSROOM ENVIRONMENT, CURRICULUM, AND PEERS?

Student contends San Francisco denied Student a FAPE by failing in the May 21, 2025, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers. Student's amended complaint did not identify and challenge specific goals of the May 21, 2025, IEP, or contend the May 21, 2025 IEP lacked certain goals it should have contained. The gravamen of Student's Issue 7 is not the May 21, 2025, IEP's goals in and of themselves, but the assertion the May 21, 2025, IEP did not offer things necessary to ensure Student's access to her classroom environment, curriculum, and peers. Student's written closing argument attempted to expand this issue to concern the absence of goals in five specific areas never alleged in the amended complaint. Student's written closing argument also attempted to expand this issue to concern the adequacy of the "communication" goal for which the speech-language pathologist

was responsible, also never alleged in the amended complaint. The ALJ denies Student's attempt to expand the scope of Issue 7. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

San Francisco contends Student failed to explain at hearing what additional goals, services, supports, or safety measures were allegedly required for Student to access her classroom environment, curriculum, and peers. San Francisco asserts it offered Student a uniquely individualized and interdisciplinary educational program tailored to the interaction of all her disabilities that afforded her a FAPE including access to her classroom environment, curriculum, and peers.

Student's contention San Francisco did not offer sufficient resources to ensure access to her classroom environment, curriculum, and peers is duplicative of Issue 6a regarding deaf-blind intervention by a person in the role of an intervener, which Student asserts was necessary for her to access to her classroom environment, curriculum, and peers.

San Francisco's May 21, 2025, offer consisted of instruction from three categories of education specialists trained and qualified to educate students who were deaf-blind. The extensive support needs cross-categorical special day class for middle school students had seven students. Six of the seven students during the 2025-2026 school year had one-to-one aides. There was a classroom aide who came at least twice a week, who was hard-of-hearing and used ASL as her main form of communication. The classroom aide supplemented communication in the classroom by teaching the classroom teacher and others new signs regularly. This native user of ASL elevated the vocabulary and use of ASL and signs for communication in the extensive support needs classroom.

One student in the class communicated using an approximation of ASL, along with spoken Spanish and English. Some of the students used augmentative and alternative communication devices. Some used a combination of auditory communication and sign language. Two used augmentative and alternative communication devices and tactile communication, where three-dimensional objects and texturized letters were paired with their lessons and learning. Some students had low vision and were more auditory-based, and used high-contrast cards and images. The extensive support needs classroom teacher described it as a full communication classroom using various modes including auditory, visual, and tactile. ASL was part of the daily routine with all the students, especially regarding days of the week, colors, and numbers, and was a way to connect everyone in the classroom and have another way to communicate.

The classroom teacher had bachelor's degrees in child development with an emphasis on school-age children and families, and in communicative disorders and deaf education. She later earned her master's degree in special education and the moderate/severe education specialist credential. She did not pursue the teacher of the deaf and hard-of-hearing credential but had a background in deaf education that enhanced her ability to educate students with extensive support needs.

The middle school campus San Francisco offered had a full-time school nurse. The nurse's office was close to the extensive support needs classroom and the school nurse was constantly reachable by radio. Additionally, there was an assistant nurse on campus who also was a registered nurse. All the adults in the classroom were trained in cardiopulmonary resuscitation. The classroom teacher was qualified to recognize seizure episodes and swallowing issues, and she and five of the seven paraeducators who worked in the classroom were trained in the administration of seizure medication. Not only were ample staff available to address any health problem Student might

encounter, but they were well trained to recognize problems in students with communication impairments. The campus and classroom staffing reflected ample safety planning.

San Francisco offered Student a full-time, one-to-one aide with proficiency in Student's modes of communication including ASL, augmentative and alternative communication, and aided language modeling. The aide also would support Student's tactile communication goals, with the training and supervision of the teacher of the deaf and hard-of-hearing. These supports would have enabled Student to access the classroom and curriculum, and to interact with her classmates. The one-to-one aide would have also accompanied Student in general education, and during recess and breaks, to facilitate interaction with typically developing peers.

The May 21, 2025, IEP offered Student many accommodations for presentation of curriculum designed for her to access the curriculum. It offered Student sensory accommodations and strategies to address concerns in tactile, movement, and balance processing. It offered assistive technology equipment for augmentative and alternative communication, and open space with appropriate padding for Student to have movement breaks, lie down, and roll around, as well as space to accommodate her mobility equipment. All of these supported Student's access to her curriculum, classroom environment, and peers.

The May 21, 2025, IEP offered teacher and staff training by a school nurse regarding Student's medical needs, precautions, and interventions for seizures or other health events. It offered consultation between the classroom team and an individual with specialized training in feeding to support the team in implementing Student's feeding protocols. It offered consultation between the orientation and mobility teacher and the IEP team regarding environment adaptations and route planning. It offered

consultation between the teacher of the deaf and hard-of-hearing, the teacher of the visually impaired, the occupational therapist, the physical therapist, the educational audiologist, and the other members of the educational team. All of these addressed Student's safety and supported access to her curriculum, classroom environment, and peers.

Student failed to prove by a preponderance of the evidence that San Francisco failed in the May 21, 2025, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

ISSUE 8: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING FOR THE JANUARY 15, 2026, IEP TO CONDUCT OR INCORPORATE APPROPRIATE ASSESSMENTS, INCLUDING A COMMUNICATION ASSESSMENT OR ASSISTIVE TECHNOLOGY ASSESSMENT?

Student contends San Francisco denied Student a FAPE by failing to conduct a communication or assistive technology assessment before the January 15, 2026, IEP team meeting at which the October 22, 2025, Functional Vision Assessment report was reviewed. Student makes the specific argument that San Francisco should have conducted a "tactile-communication assessment." San Francisco contends it conducted comprehensive assessments in May 2025, including in communication and that it was not obligated to conduct additional assessments before the January 15, 2026, IEP team meeting.

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FUNCTIONAL VISION ASSESSMENT AND JANUARY 15, 2026, IEP

San Francisco convened an IEP team meeting on January 15, 2026, at which a functional vision assessment by a teacher of the visually impaired, dated October 22, 2025, was reviewed. The report stated that although Student did not have a medical diagnosis of cortical/cerebral visual impairment, she exhibited some characteristics of that condition. Cortical/cerebral visual impairment can be temporary or permanent. It is caused by the disturbance of the visual pathways and/or the occipital lobes of the brain. It causes the visual systems of the brain to not consistently understand or interpret what the eyes see. Student's functional vision was best described as low vision with cortical/cerebral visual impairment characteristics, including variability, light-seeking behaviors, and reliance on movement and contrast.

Student relied heavily on touch to explore objects and often mouthed objects. Her deafness limited her auditory integration, and she relied on visual and tactile pairing. She supported her visual skills by using touch, and predictable locations also supported her visual skills. She used touch to confirm or explore objects, and used tactile exploration when visual recognition failed. She relied on familiar routines and environments for orientation.

The functional vision assessment explained that Student's primary access to learning was through tactile exploration and multi-sensory input. Her visual access was limited to light, color, and motion-based materials. She had a strong preference for red and yellow colors. Her best visual fields were middle and left, and she tilted her head to the left for better viewing. She did not benefit from print, photos, or symbolic images. She required hands-on experiential learning with strong tactile and environmental supports. The educational implications of this information were that Student's visual

access was highly variable and dependent on lighting conditions, object properties such as movement, contrast and color, and proximity and multi-sensory input. Student required intentional presentation of materials using high-contrast, light-enhanced, and tactile strategies. Her deafness further limited access to incidental learning and social cues, making direct instruction and multi-sensory engagement essential.

The teacher of the visually impaired recommended Student receive well-balanced lessons and balanced days to help her succeed in accessing the curriculum. Student required visual breaks, which could be embedded in her daily school routine. An example of that was the implementation of a multi-sensory approach, encouraging Student to use her tactile skills when her vision was tired. The teacher of the visually impaired recommended direct services to Student and consult time to other members of the IEP team, who all needed to work closely with the teacher of the visually impaired.

As a result of the January 15, 2026, IEP team meeting, San Francisco offered two more goals in the January 15, 2026 amendment to the May 21, 2025, IEP. The first was to address Student's need to develop skills in sustaining purposeful tactile exploration of objects, and the second was for sustaining attention to and tracking of objects with light and movement properties.

The January 15, 2026, amendment to the May 21, 2025, IEP added instructional supports specific to Student's visual abilities and accommodations for her access and engagement through visual means:

- Present materials in well-lit environments using high-contrast, shiny, and colorful objects;
- Use red and yellow when possible to increase engagement;

- Avoid cluttered visual fields and present items one at a time against plain backgrounds;
- Pair visual input with tactile and movement-based cues;
- Use spotlight or flashlight techniques to draw visual attention;
- Allow Student to explore objects through touch before expecting visual engagement;
- Use spinning or light-emitting toys to build sustained attention;
- Provide choices between two objects rather than requiring identification or matching; and
- Avoid reliance on photos, symbols, or visual recognition tasks.

The January 15, 2026, amendment IEP replaced the offer of 600 minutes yearly of individual vision services by the teacher of the visually impaired with an offer of three sessions of 30 minutes each, totaling 90 minutes weekly. It retained the offer of 600 minutes yearly, at a rate of approximately 60 minutes per month, of consultation between the teacher of the visually impaired and the educational team.

On February 7, 2026, Parent signed agreement to the IEP with exceptions, specifically agreeing Student was eligible for special education and related services as a student with deaf-blindness and multiple disabilities, but did not agree the IEP met the full range of Student's needs related to all her disabilities. Parent did not have Student begin attending school.

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NO OTHER ASSESSMENTS REQUESTED OR REQUIRED

San Francisco conducted three-year-review assessments in spring 2025. From May 21, 2025, through January 15, 2026, San Francisco did not determine Student's educational or related services needs warranted a reassessment. Neither Parent nor a teacher requested an assessment in the interim. San Francisco was not required to conduct new assessments before spring 2028. (*Lake Elsinore, supra*, 678 Fed. Appx. at p. 544.)

The weight of the evidence did not establish San Francisco was required to assess Student for communication or assistive technology needs between the three-year-review assessments of May 2025 and January 15, 2026.

Student failed to prove by a preponderance of the evidence that San Francisco denied Student a FAPE by failing for the January 15, 2026, IEP to conduct or incorporate appropriate assessments, including a communication or assistive technology assessment.

ISSUE 9: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING AT THE JANUARY 15, 2026, IEP TEAM MEETING TO INCLUDE MANDATORY IEP TEAM MEMBERS WITH APPROPRIATE TRAINING OR QUALIFICATIONS IN DEAF-BLIND EDUCATION OR TACTILE COMMUNICATION DURING THE IEP DEVELOPMENT PROCESS?

Student contends San Francisco denied her a FAPE by failing to have people attend the January 15, 2026, IEP team meeting who had appropriate training or qualifications in deaf-blind education or tactile communication. Student argues the team was not "qualified to design a deafblind program." San Francisco contends there

is no requirement to have such specialist or specialized members on the IEP team, although the January 15, 2026, IEP team included professionals qualified to address Student's needs related to her status as a student with deaf-blindness.

San Francisco team members with training or qualifications in deaf-blind education and tactile communication attended the January 15, 2026, IEP team meeting, including:

- Annah Karakas, education specialist with a moderate/severe or extensive support needs credential;
- Joseph Elizawright, education specialist with deaf and hard-of-hearing credential; and
- Griselda Vogt, education specialist with visual impairments credential.

Those three teachers each held credentials authorizing them to teach and support students with deaf-blindness. Those three teachers collectively had appropriate training or qualifications in deaf-blind education and tactile communication.

The January 15, 2026, IEP team meeting was attended by Parent, a general education teacher, multiple special education teachers and related services providers, and appropriately qualified school district representatives. The January 15, 2026, IEP team was properly constituted, and additionally contained people with specialized knowledge in Student's disabilities and related areas of educational need.

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As explained in Issue 2, the law did not require the attendance of some person with more specialized expertise in tactile communication than the three teachers whose credentials authorized them to educate and serve students with deaf-blindness.

San Francisco did not deny Student a FAPE by failing at the January 15, 2026, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf-blind education or tactile communication

ISSUE 10: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE JANUARY 15, 2026, IEP TO OFFER NECESSARY SERVICES, SPECIFICALLY DEAF-BLIND INTERVENTION OR TACTILE COMMUNICATION INSTRUCTION?

Student contends San Francisco denied Student a FAPE by failing in the January 15, 2026, IEP to offer necessary services, specifically deaf-blind intervention or tactile communication instruction. Student again focuses on the assertion that Student required a one-to-one aide who was fluent in ASL and was trained as an intervener for the deaf-blind, and that San Francisco did not have among its employees an aide who was fluent in ASL and had completed training to be a deaf-blind intervener.

San Francisco contends it offered a full-time one-to-one aide proficient in Student's modes of communication to facilitate continuous interaction, communication, and the transmission of information. San Francisco asserts the aide would have been continuously supervised, trained, and supported by the educators and service providers credentialed to serve students with deaf-blindness, especially the teacher of the deaf and hard-of-hearing, and would have implemented services designed to address

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Student's unique communication needs within the total and tactile communication framework reflected in the IEP. San Francisco argues it was not required to offer an aide with Parent's preferred criteria.

At the January 15, 2026, IEP team meeting, San Francisco added to its offer stated in the January 15, 2026, amendment to the May 21, 2025, IEP five hours of training to be provided to all of Student's educational team regarding deaf-blindness and intervening. That training was offered to be provided between January 15 and May 20, 2026.

DEAF-BLIND INTERVENTION

The January 15, 2026, amendment IEP included the same offer for a full-time one-to-one aide to facilitate continuous interaction, communication, and the transmission of information according to Student's needs. The aide was described as proficient in Student's modes of communication, and would undergo intervener training in deaf-blindness. Student argues that the offer was insufficient, as Parent preferred an ASL-proficient and already-trained intervener for the deaf-blind.

As detailed in Issues 3 and 6, the evidence did not establish that Student required an aide fluent in ASL and/or trained as a deaf-blind intervener in January 2026, any more than in November 2023, or May 2025, to obtain educational benefit appropriate in light of her circumstances.

The January 15, 2026, amendment IEP offered Student an educational program designed to encourage and support her emerging skills in communication and language, including Student's emerging dependence on tactile communication in light of her declining vision. It offered Student the opportunity to develop expressive and

receptive communication through any and all means, explicitly including tactile communication, in an environment designed around the total communication method that acknowledged Student's pre-symbolic and gestural communicative attempts.

The January 15, 2026, amendment IEP offered Student instruction from three categories of education specialists trained and authorized to educate students who were deaf-blind, one of whom was also trained and authorized to educate students with intellectual disabilities, multiple disabilities, orthopedic impairments, and other health impairments. The IEP included a full-time, one-to-one aide with proficiency in Student's modes of communication including ASL, augmentative and alternative communication, and aided language modeling. The aide also would support Student's tactile communication goals, with the training and supervision of the teacher of the deaf and hard-of-hearing. San Francisco offered assistive technology equipment for augmentative and alternative communication.

Parent preferred an ASL-proficient intervener for the deaf-blind. However, the weight of the evidence did not show that Student needed an ASL-fluent intervener to benefit from her education, even if Student might possibly have received more benefit with Parent's preferred methodology.

Student again argues San Francisco would not have had an ASL-proficient aide available if Parent had consented to the January 15, 2026, amendment IEP and sent Student to school. However, that would be an implementation issue and Parent never enrolled Student at the offered middle school. Student cites no legal authority for her argument that an offer of FAPE is deficient if it appears the school district will have difficulty implementing it. In addition, implementation was not an issue in this case.

Student failed to establish by a preponderance of the evidence that she would not have received educational benefit appropriate in light of her circumstances under the January 15, 2026, amendment to the May 21, 2025, IEP because it lacked necessary deaf-blind intervention.

TACTILE COMMUNICATION INSTRUCTION

Student's contentions regarding the January 15, 2026, amendment to the May 21, 2025, IEP are the same as above because the amended IEP did not contain an instructional service specifically addressing tactile communication. Student argues without adults who understood tactile communication, Student would be unable to communicate medical distress and real harm to Student was likely.

The January 15, 2026, amendment IEP did not change the offer from the May 21, 2025, IEP regarding reference to tactile communication in Student's communication goals to ensure Student would receive instruction in tactile communication during speech services, and across settings in support of those goals. The results of the functional vision assessment reviewed at the January 15, 2026, IEP team meeting confirmed Student's reliance on touch to identify and interact with her environment, establishing a likelihood of progress with increased emphasis on touch in communication approaches.

The January 15, 2026, amendment IEP again offered Student three hours per week of direct, individual work addressing Student's language development with ASL and tactile communication development, along with 60 minutes weekly of consultation between the teacher of the deaf and hard-of-hearing working with Student and the rest of Student's IEP team to support Student using the same signs and strategies. Student

failed to prove the communication goals for tactile communication with the services offered in the January 15, 2026, amendment to support Student's progress in tactile as well as total communication were not reasonably calculated to enable Student to make communication progress appropriate in light of her circumstances as of January 2026.

Student failed to prove by a preponderance of the evidence that San Francisco failed in the January 15, 2026, IEP to offer necessary services, specifically deaf-blind intervention and tactile communication, that she required to receive a FAPE.

ISSUE 11: DID SAN FRANCISCO DENY STUDENT A FAPE BY FAILING IN THE JANUARY 15, 2026 IEP TO OFFER ESSENTIAL GOALS, SERVICES, SUPPORTS, AND SAFETY PLANNING TO ENSURE ACCESS TO HER CLASSROOM ENVIRONMENT, CURRICULUM, AND PEERS?

Student contends San Francisco denied Student a FAPE by failing in the January 15, 2026, amendment to the May 21, 2025, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers. Student's amended complaint did not identify and challenge specific goals of the January 15, 2026, amendment to the May 21, 2025, IEP, or contend the January 15, 2026, amendment to the May 21, 2025, IEP lacked certain goals it should have contained. The gravamen of Student's Issue 11 is not the January 15, 2026, amendment to the May 21, 2025 IEP's goals in and of themselves, but the assertion the January 15, 2026, amendment to the May 21, 2025, IEP did not offer things necessary to ensure Student's access to her classroom environment, curriculum, and peers. Student's written closing argument attempted to expand this issue to concern the absence of goals in three specific

areas never alleged in the amended complaint. Student's written closing argument regarding Issue 11 again attempted to expand this issue to concern the adequacy of the "communication" goal for which the speech-language pathologist was responsible, also never alleged in the amended complaint. The ALJ denies Student's attempt to expand the scope of Issue 11. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

San Francisco contends Student failed to explain at hearing what additional goals, services, supports, or safety measures were allegedly required for Student to access her classroom environment, curriculum, and peers. San Francisco asserts it offered Student a uniquely individualized and interdisciplinary educational program tailored to the interaction of all her disabilities that afforded her a FAPE including access to her classroom environment, curriculum, and peers.

Student's contention San Francisco did not offer sufficient resources to ensure access to her classroom environment, curriculum, and peers is duplicative of Issue 10a regarding deaf-blind intervention by a person in the role of an intervener, which Student asserts was necessary for her to access to her classroom environment, curriculum, and peers.

The January 15, 2026, amendment IEP offered additional goals, supports, and services beyond those in the May 21, 2025, IEP, based on information from the functional vision assessment and responding to Parent's concern about staff's need for training about educating a student with deaf-blindness. The January 15, 2026, amendment IEP added two goals related to Student's visual attention and tracking, and development of strong tactile skills through sustained, purposeful, tactile exploration of objects. It offered specialized instruction from three categories of education specialists trained and qualified to educate students who were deaf-blind, primarily in a small

classroom with a very low student-to-adult ratio. The classroom supported students developing total communication skills including ASL and augmentative and alternative communication, with specific direction in Student's IEP for tactile communication strategies. The extensive support needs teacher had experience with students with a variety of communication modes and was prepared to include Student and meet her needs, ensuring access to the classroom environment, curriculum, and peers.

The January 15, 2026, amendment added to the extensive accommodations of the May 21, 2025, IEP, now addressing instructional supports, access, and engagement specific to Student's abilities and needs correlated specifically to her low vision with cortical/cerebral visual impairment characteristics. All of the accommodations supported Student's access to her curriculum, classroom environment, and peers.

The January 15, 2026, amendment IEP increased the amount of direct instruction from a teacher of the visually impaired from 600 minutes per year, approximately 60 minutes per month, to 90 minutes per week. It nearly quadrupled the previous offers of direct instruction from a teacher of the visually impaired. The January 15, 2026, amendment IEP newly offered five hours of training Student's entire educational team on deaf-blindness and intervening, to be completed in the four months before May 21, 2026. These increased services and staff training supported Student's access to her curriculum, classroom environment, and peers.

The middle school campus San Francisco offered had a full-time school nurse, whose office was close to the extensive support needs classroom. The school nurse was constantly reachable by radio and had an assistant nurse on campus as backup. The adults in the extensive support needs classroom were trained to address emergent

medical concerns and would have received additional training specific to Student's medical needs, precautions, and interventions for seizures or other health events. The January 15, 2026, amendment offered consultation:

- Between the classroom team and an individual with specialized training in feeding to support the team in implementing Student's feeding protocols;
- Between the orientation and mobility teacher and the IEP team regarding environment adaptations and route planning; and
- Between the teacher of the deaf and hard-of-hearing, the teacher of the visually impaired, the occupational therapist, the physical therapist, the educational audiologist, and the other members of the educational team.

All of these addressed Student's safety and supported access to her curriculum, classroom environment, and peers.

San Francisco offered Student a full-time, one-to-one aide with proficiency in Student's modes of communication including ASL, augmentative and alternative communication, and aided language modeling. The aide also would support Student's tactile communication goals, with the training and supervision of the teacher of the deaf and hard-of-hearing, and facilitate her access to instructional media designed by the teacher of the visually impaired. These supports would have enabled Student to access the classroom and curriculum, and to interact with her classmates. The one-to-one aide would have also accompanied Student in general education, and during recess and breaks, to facilitate interaction with typically developing peers.

Student failed to prove by a preponderance of the evidence that San Francisco failed in the January 15, 2026, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

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:

San Francisco did not deny Student a FAPE by failing for the November 1, 2023, IEP to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment.

San Francisco prevailed on Issue 1.

ISSUE 2:

San Francisco did not deny Student a FAPE by failing at the November 15, 2023, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf/blind education, tactile communication, or orientation and mobility during the IEP development process.

San Francisco prevailed on Issue 2.

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ISSUE 3a:

San Francisco did not deny Student a FAPE by failing in the November 15, 2023 IEP to offer necessary services, specifically deaf-blind intervention.

San Francisco prevailed on Issue 3a.

ISSUE 3b:

Student withdrew Issue 3b at the conclusion of hearing and it was dismissed with prejudice.

San Francisco prevailed on Issue 3b.

ISSUE 3c:

San Francisco did not deny Student a FAPE by failing in the November 15, 2023, IEP to offer necessary services, specifically tactile communication instruction.

San Francisco prevailed on Issue 3c.

ISSUE 4:

San Francisco did not deny Student a FAPE by failing in the November 15, 2023, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

San Francisco prevailed on Issue 4.

ISSUE 5:

San Francisco did not deny Student a FAPE by failing between November 15, 2023, and May 21, 2025, to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment.

San Francisco prevailed on Issue 5.

ISSUE 6a:

San Francisco did not deny Student a FAPE by failing in the May 21, 2025, IEP to offer necessary services, specifically deaf-blind intervention.

San Francisco prevailed on Issue 6a.

ISSUE 6b:

Student withdrew Issue 6b at the conclusion of hearing and it was dismissed with prejudice.

San Francisco prevailed on Issue 6b.

ISSUE 6c:

San Francisco did not deny Student a FAPE by failing in the May 21, 2025, IEP to offer necessary services, specifically tactile communication instruction.

San Francisco prevailed on Issue 6c.

ISSUE 7:

San Francisco did not deny Student a FAPE by failing in the May 21, 2025, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

San Francisco prevailed on Issue 7.

ISSUE 8:

San Francisco did not deny Student a FAPE by failing for the January 15, 2026, IEP to conduct or incorporate appropriate assessments, including a communication assessment or assistive technology assessment.

San Francisco prevailed on Issue 8.

ISSUE 9:

San Francisco did not deny Student a FAPE by failing at the January 15, 2026, IEP team meeting to include mandatory IEP team members with appropriate training or qualifications in deaf/blind education or tactile communication during the IEP development process.

San Francisco prevailed on Issue 9.

ISSUE 10a:

San Francisco did not deny Student a FAPE by failing in the January 15, 2026, IEP to offer necessary services, specifically deaf-blind intervention.

San Francisco prevailed on Issue 10a.

ISSUE 10b:

Student withdrew Issue 10b at the conclusion of hearing and it was dismissed with prejudice.

San Francisco prevailed on Issue 10b.

ISSUE 10c:

San Francisco did not deny Student a FAPE by failing in the January 15, 2026, IEP to offer necessary services, specifically tactile communication instruction.

San Francisco prevailed on Issue 10c.

ISSUE 11:

San Francisco did not deny Student a FAPE by failing in the January 15, 2026, IEP to offer essential goals, services, supports, and safety planning to ensure access to her classroom environment, curriculum, and peers.

San Francisco prevailed on Issue 11.

ORDER

All Student's requests for relief are denied.

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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.

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings