

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

FAIRFIELD-SUISUN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026061343

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE GRANTING
CONTINUANCE OF THE PREHEARING CONFERENCE AND
THE DUE PROCESS HEARING

AUGUST 10, 2026

On August 10, 2026, Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Diana Renteria appeared on behalf of Student. Attorney Laurie Reynolds appeared for Attorney Jan Tompsky, who was unavailable, on behalf of

Fairfield-Suisun Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

MOTION TO CONTINUE THE DUE PROCESS HEARING

This case was filed by Student on June 29, 2026. OAH scheduled the hearing on this matter for August 18 through 20, 2026.

On August 5, 2026, Fairfield-Suisun Unified School District filed a request for continuance of the hearing because its attorney is already engaged in another hearing in an earlier-filed OAH matter, on the same dates as the hearing in this case. At the PHC, District asked that the matter be continued for 30 days and stated that there were no other attorneys available to conduct the hearing. OAH received no written opposition from Student. However, at the PHC, Student's attorney opposed the motion on the grounds that it was untimely because she never got a copy, and blithely asserted that another lawyer could conduct the hearing, instead of Attorney Tomskey.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include, for example, the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances. (Cal. Rules of Court, rule 3.1332(d).)

After considering all the circumstances, the ALJ finds good cause for the requested continuance based on Attorney Tomsy's unavailability because she will be engaged in a hearing in an earlier filed matter. The motion to continue was timely made by District. It appears that the reason that Attorney Renteria never received a copy of the motion to continue is because she admittedly has been unable to access the email at her email address of record. This is the first continuance of this case, and the continuance requested is relatively short. As such, the ALJ declines to force Fairfield-Suisun Unified School District to have another attorney conduct the hearing in this matter. Student's objection is overruled.

There are also other reasons which justify continuing the hearing. Student filed two complaints in this matter on June 29, 2026. At the PHC, Student's counsel was unable to explain why there were two filings made, and what, if any, differences there were between the pleadings filed. The ALJ informed Student's counsel that pleadings could not be amended by merely filing a new pleading.

The parties were ordered to meet and confer regarding the two filings so that everyone was clear as to which document was intended to be the operative pleading, and Fairfield-Suisun Unified School District had the operative pleading, to which it is required to respond, as further addressed below. Student's attorney requested she have until August 14, 2026, to investigate. Accordingly, by no later than August 14, 2026, the parties shall meet and confer, and by August 17, 2026, Student's counsel shall report back to OAH in writing regarding Student's investigation and the results of the attorneys' meet and confer conference.

The current hearing dates are vacated. At the PHC, the parties agreed on new dates. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on September 14, 2026, at 1:00 PM, and will be conducted by videoconference.

Student filed his PHC Statement late and offered no justification for doing so. The parties are required to timely file new prehearing conference statements for the next PHC, addressing the matters discussed during the PHC and as ordered below. Prehearing conference statements and motions are due to OAH no later than three business days before the next PHC. Late motions will only be considered if good cause is established for the late filing.

DUE PROCESS HEARING will be September 22 through 24, 2026.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to [subpoenas](#) and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

ISSUES AND PROPOSED RESOLUTIONS

The issues at the due process hearing, and proposed resolutions, as alleged in the first complaint filed by Student and as understood by the ALJ, are as set forth below. The issues have been organized chronologically for clarity. A free appropriate public education is called a FAPE. An individualized education program is called an IEP.

The ALJ asked Student questions about some of Student's claims to attempt to obtain clarity, but did not review each of the issues with the parties at the PHC, after the parties declined having the ALJ do so. Instead, the parties will review this PHC Order which lists the issues for hearing below. In each of the parties' updated PHC statements, each party shall state whether that party has any objection to the issues stated in this Order, specifying the basis of any objection, including why that party believes the Order inaccurately reflects Student's claims. Any objections will be addressed at the next PHC. The ALJ may request further clarification of the issues on the first day of hearing.

ISSUES

1. Did Fairfield-Suisun Unified School District deny Student a FAPE by materially failing to implement Student's speech and language services required by the June 22, 2023, IEP, during the 2024-2025 and 2025-2026 school years?
2. Did Fairfield-Suisun Unified School District deny Student a FAPE in the February 7, 2025, IEP by:
 - A. Failing to offer adequate goals for:
 - i. behavior?
 - ii. identifying functions of objects?
 - iii. ADL/vocational?

- iv. social pragmatics/expressive language?
 - v. receptive language?
 - B. Failing to offer sufficient in-person speech and language services?
 - C. Failing to offer adequate occupational therapy?
 - D. Offering an inadequate individual transition plan, by failing to offer appropriate transition goals in:
 - i. college awareness?
 - ii. career awareness?
 - iii. independent living?
 - E. Not allowing Parent the opportunity to contribute to Student's transitional goals at the IEP team meeting on February 7, 2025?
 - F. Failing to offer an augmentative and alternative communication device as an accommodation?
- 3. Did Fairfield-Suisun Unified School District deny Student a FAPE by materially failing to implement the February 7, 2025, IEP's speech and language services during the 2025-2026 school year by failing to have a functional augmentative and alternative communication device available to Student?
- 4. Did Fairfield-Suisun Unified School District deny Student a FAPE by failing to provide timely notice one year before Student's 18th birthday of the transfer of his educational rights to him at the age of majority?
- 5. Did Fairfield-Suisun Unified School District deny Student a FAPE in the February 25, 2026, IEP by:
 - A. Failing to offer sufficient in-person speech and language services?
 - B. Failing to offer adequate occupational therapy services?

- C. Failing to offer an augmentative and alternative communication device as an accommodation?
 - D. Not allowing Parent the opportunity to contribute to Student's transitional goals at the IEP team meeting on February 25, 2026?
- 6. Did Fairfield-Suisun Unified School District deny Student a FAPE by materially failing to implement the February 25, 2025, IEP's speech and language services during the 2025-2026 school year by failing to have a functional augmentative and alternative communication device available to Student?
- 7. Did Fairfield-Suisun Unified School District deny Student a FAPE in the February 25, 2026, IEP, as amended in the March 17, 2026, IEP, by:
 - A. Offering an inadequate individual transition plan, specifically:
 - i. failing to develop measurable postsecondary goals in training/education?
 - ii. failing to develop measurable postsecondary goals in independent living?
 - B. Failing to document age-appropriate transition assessments?
 - C. Failing to invite the California Department of Rehabilitation to the IEP team meetings held:
 - i. on February 25, 2026?
 - ii. on March 17, 2026?
 - D. Failing to provide a course of study reasonably calculated to enable Student to meet his stated post-secondary employment goal?
 - E. Not allowing Parent the opportunity to contribute to Student's transitional goals at the IEP team meeting on March 17, 2026?

8. Did Fairfield-Suisun Unified School District deny Student a FAPE by failing to adequately assess Student in all areas of need during the 2025-2026 school year, specifically:
 - A. Failing to conduct a functional behavior assessment?
 - B. Failing to conduct an augmentative and alternative communication assessment?
 - C. Failing to conduct an assistive technology assessment?

PROPOSED RESOLUTIONS

The resolutions requested by Student include requiring Fairfield-Suisun Unified School District to convene an IEP team meeting within 30 days to revise his IEP to develop appropriate goals. Student also seeks an independent functional behavior assessment and an IEP to review it with a new IEP offer. Student seeks an independent occupational therapy assessment and 60 minutes per week of occupational therapy services. Student seeks an order requiring Fairfield-Suisun Unified School District to conduct an augmentative and alternative communication assessment, an assistive technology assessment, and a transition assessment using specific instruments, but at Parent's option, a transitional assessment and services ordered provided by a nonpublic agency. Student seeks an order requiring an IEP team meeting to review the transition assessment and develop a new transition plan, and that Fairfield-Suisun Unified School District be required to extend IEP team meeting invitations to outside agencies. Student also seeks an award of compensatory education and funding for parent training. Student also seeks an order which requires the IEP to include a device as an accommodation and all speech services to be delivered in-person.

OAH has not received a copy of Fairfield-Suisun Unified School District's response to Student's complaint. Fairfield-Suisun Unified School District shall file its response

with OAH by August 21, 2026. (*M.C. v. Antelope Valley Unified School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

EXHIBITS

The parties shall serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties shall upload their exhibits electronically according to the Order Setting Procedures for Filing Exhibits Electronically. Timely uploading electronic hearing exhibits five business days before the first day of hearing constitutes that party's timely exchange of evidence in compliance with Education Code section 56505, subdivision (e)(7). If further assistance is needed, please [contact OAH](mailto:OAHSEOps@dgs.ca.gov) at OAHSEOps@dgs.ca.gov.

Except for good cause shown, or unless used solely for rebuttal or impeachment, any exhibit not timely exchanged as required by Education Code section 56505, subdivision (e)(7) shall not be admitted into evidence at the hearing unless the ALJ rules that it is admissible.

IDENTIFYING EXHIBITS AND PAGE NUMBERS

Each exhibit must be identified by a letter and number. Student must use the letter S before the number to identify Student's exhibits. Fairfield-Suisun Unified School District must use the letter D before the number to identify its exhibits. For example, S-1 means Student's exhibit 1, and D-1 means Fairfield-Suisun Unified School District's exhibit 1. A cover sheet with this identifying letter and number should be the first page of each exhibit. The electronic evidence program will automatically number the exhibits and additional page numbering or bates stamping should not be added.

CONTENT

Each exhibit must consist of one document. Separate documents may not be combined into one exhibit. Emails may be consolidated into one exhibit if they are part of a single chain of messages, unless the email has attachments in which case each email with attachments shall be a separate exhibit. Any document which had an attachment or enclosure may also be consolidated into one exhibit even if the attachment or enclosure is also a separate exhibit.

Exhibits should be in chronological order with the oldest document first.

Parties should include resumes or curriculum vitae for each witness expected to testify as an expert.

Fairfield-Suisun Unified School District's exhibits must include a copy of the school calendar for each school year in question, including if they exist, calendars for all extended school years.

For any assessment plans, the parties shall include all signatures pages, if any, demonstrating when the assessment plan was sent, and if, and when Parent or Student signed and returned the assessment plan.

For any IEPs, the parties shall include all signatures pages, if any, demonstrating who attended each IEP team meeting, and if, and when, Parent or Student consented to or refused to consent to each IEP or part thereof.

Electronic copies of exhibits filed with OAH shall be filed by 5:00 PM at least five business days before the first day of hearing. Please refer to the General Order OAH issued with the Scheduling Order that contains the Order Setting Procedures for Filing Exhibits Electronically. It includes instructions for how to file exhibits electronically.

Beginning three business days before the hearing, the electronic evidence system will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion.

WITNESSES

The parties shall serve their list of witnesses on each other in compliance with Education Code section 56505. No party shall be permitted to call any witnesses not timely disclosed except for good cause shown, supported by written declaration under penalty of perjury, and at the discretion of the ALJ.

Parties are responsible for ensuring that all participants are familiar with and follow the Instructions for Joining the Online Due Process Hearing provided with this Order. Participants who have not previously used the [Zoom application](https://support.zoom.us/hc/en-us/categories/200101697), may find informative instructions by visiting, Getting Started with Zoom at <https://support.zoom.us/hc/en-us/categories/200101697>.

The parties are responsible for ensuring that witnesses join the virtual hearing room at the designated date and time to testify. Witnesses are required to join the due process hearing by computer and appear by video conference unless they do not have the necessary computer equipment. If a witness does not have the necessary equipment, the ALJ may permit the witnesses to appear by audio only or by telephone. "Audio only" means using a computer without video. A witness's inability to attend the hearing by video conference will be discussed at the start of the hearing.

The parties are responsible for producing their own witnesses unless otherwise ordered by the ALJ. Parties shall make witnesses under their control reasonably available. The parties must schedule their witnesses to avoid delays in the hearing and to minimize or eliminate the need to call witnesses out of order.

The ALJ has discretion to limit the number of witnesses and the time allowed for testimony. Education Code section 56505.1, subdivision (h), empowers the ALJ to set a reasonable limit on the length of the hearing after consideration of four factors. The first two factors are the issues to be heard and the complexity of facts to be proven. The second two factors are the ability of the parties or their representatives to present their respective cases and the parties' estimates of the time needed to present their cases.

MEET AND CONFER

The parties are encouraged to review and shorten their witness and exhibit lists before the hearing. Evidence may be excluded if it is repetitive, cumulative, or insufficiently probative to justify the time it would take to present such evidence.

In addition to meeting and conferring by August 14, 2026, regarding the operative pleading as required above, unless otherwise ordered, the parties are ordered to meet and confer no later than September 16, 2026, at 4:00 PM to discuss scheduling witnesses and how much time each witness will take to testify. The parties shall discuss any issues related to counsel and witnesses appearing by videoconference for hearing, electronically viewing exhibits during the hearing, and subpoenas, if any. The parties shall identify duplicate exhibits in the parties' hearing exhibits and decide which one of the duplicates both parties will use at hearing. The parties shall discuss whether they can produce a written stipulation as to pertinent facts, contentions, resolutions and the authenticity and admissibility of documents to shorten the length of time needed for the hearing.

As part of the meet and confer process, Fairfield-Suisun Unified School District shall inform Student which proposed witnesses on Student's list are District employees. Fairfield-Suisun Unified School District shall also identify the witnesses on Student's list

who require a subpoena. Fairfield-Suisun Unified School District may agree to accept service for a witness under its control or provide Student with the witness's most recent contact information. These obligations are reciprocal. To the extent applicable, Student is required to do the same regarding the witnesses on Fairfield-Suisun Unified School District's list and provide the witness's most recent contact information.

Any contact information provided to the opposing party shall be used for the limited purpose of issuing subpoenas or for contacting a witness to attend the hearing. Any contact information provided to the opposing party shall not be disclosed to any other person.

PARTICIPANT INFORMATION FORM

Student failed to file a Participant Information Form. Student is ordered to file a Participant Information Form by August 14, 2026.

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

EVIDENCE PRESENTATION

In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 62.) In this case, Student requested the hearing and bears the burden of proof. Student's case-in-chief shall be presented first, followed by Fairfield-Suisun Unified School District, unless otherwise ordered or agreed.

WITNESS SCHEDULE

On the first day of hearing, the parties must provide a joint proposed witness schedule for the entire hearing to the ALJ after meeting and conferring with each other. The schedule should include the first and last name of each witness, which party is calling each witness to testify, and include dates and time estimates of each witness's expected testimony on an hour-by-hour basis, with breaks in the testimony factored into the schedule. In the event an agreement cannot be reached regarding the schedule, each party shall prepare a separate written schedule. Both parties must have witnesses available in case there is no agreement on the schedule.

At the beginning of the hearing, the ALJ and the parties will discuss the length of time anticipated for each witness and scheduling issues for individual witnesses. The ALJ will finalize the witness schedule. Parties must be prepared at the end of each day to discuss the witnesses to be presented the next day and the estimated time for the testimony of each witness.

SCOPE OF WITNESS EXAMINATION

Each witness will be called to testify only once, except for rebuttal purposes. All parties must examine a witness on all issues when the witness is first called to testify.

Requiring a witness to appear only once takes priority over the order in which parties present their case-in-chief.

AUDIO ONLY OR TELEPHONIC TESTIMONY

Whether a witness may appear by audio only or telephone instead of videoconference is a matter within the discretion of the ALJ. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Any party seeking to present a witness by audio only or telephone shall request permission to do so before the hearing. Any party seeking to present a witness who cannot access exhibits electronically must inform the ALJ at the beginning of the hearing.

ELECTRONIC RECORDINGS

AUDIO RECORDING

A party may request permission to make an audio recording of the hearing. Permission to make an audio recording is subject to the ALJ's discretion and based upon the following conditions:

1. The OAH recording is the only official recording;
2. The parties shall turn their recording device on and off at the same time the ALJ goes on and off the record to avoid recording conversations while off the record;
3. Operation of the party's recording mechanism will not be allowed to delay the hearing;
4. A party's recording may not be given, provided or played to a witness, or potential witness;

5. The recording is subject to the same confidentiality as the due process hearing; and
6. Participants shall not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

The parties' requests to make an audio recording of the hearing are granted. The parties shall be allowed to make an audio recording of the hearing subject to the above conditions and any other orders made at hearing. The parties are prohibited from using artificial intelligence to either record the hearing or transcribe the recording. Smart glasses are prohibited.

VIDEO RECORDING

No party, witness or anyone else may videorecord any part of the proceedings or stream live through any means.

RECORDINGS AS EXHIBITS

Recordings may not be uploaded electronically without the ALJ's permission. The ALJ has discretion to admit or exclude evidence in the form of a recording. Any request to submit a recording shall be considered at the time of hearing.

The ALJ may grant or deny the request or grant the request subject to certain conditions. The party offering the recording must establish that all or a part of the recording is relevant. The ALJ may request a transcript of the portion of the recording requested or have the party offering the recording to provide an exact identifiable portion of the recording the party seeks to admit. The identities of any person speaking on the portion of the tape being introduced must be established. An ALJ may allow the opposing party to offer additional portions of a recording to establish the context, or to rebut, the recording.

COMPENSATORY EDUCATION OR REIMBURSEMENT

A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education.

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. Documents offered as evidence to support a request for reimbursement must be separated by vendor.

MOTIONS

No prehearing motions are pending or contemplated. Any motion that was not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

STIPULATIONS

Stipulations to pertinent facts, contentions, resolutions and authenticity and admissibility of documents are encouraged. Any proposed stipulation shall be submitted to the assigned ALJ in writing prior to the start of the hearing.

CONDUCT OF PARTICIPANTS AND HEARING ROOM DECORUM

All participants in the video conference should observe the same decorum as in an in-person due process hearing. Participants must conduct themselves in a professional and courteous manner at all times. Cellular phones, telephones and computer notifications must be shut off or set to silent during the hearing unless the ALJ grants permission otherwise. Participants should appear from a private location, unless otherwise ordered. Participants should take reasonable efforts to minimize

background noise and maintain adequate room lighting. Use of virtual background images are at the discretion of the ALJ. Witnesses are prohibited from reading exhibits, documents, notes, text messages, telephones or computers while testifying, unless permitted to do so by the ALJ. The parties, their representatives and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying. Smart glasses are prohibited.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party requested an accommodation or an interpreter for the hearing.

A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning [requests for reasonable accommodation](#) is available on OAH's website at: <https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings>.

HEARING OPEN TO THE PUBLIC

The hearing is open to the public. Special education hearings are closed to the public unless a student requests the hearing to be open to the public.

An ALJ may restrict attendance because of the physical limitations of the hearing facility or take other action to promote due process or the orderly conduct of the hearing. (Cal. Code Regs., Tit. 1, § 1030.) Government Code, section 11425.20 empowers the ALJ to order an open hearing to be closed or make other protective

orders to the extent necessary or proper to ensure a fair hearing in the circumstances of the case.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting [OAH Secure e-file](https://www.applications.dgs.ca.gov/oah/oahsftweb) at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings