

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CONEJO VALLEY UNIFIED SCHOOL DISTRICT,

V.

PARENTS ON BEHALF OF STUDENT.

CASE NO. 2026031132

DECISION

May 28, 2026

On March 25, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Conejo Valley Unified School District, called Conejo Valley, naming Parents on behalf of Student. On April 13, 2026, OAH granted Student's request for a continuance, setting the hearing to begin April 28, 2026. Administrative Law Judge Katherine Roe heard this matter via videoconference on April 28, 29, and 30, 2026.

Attorney Melissa Hatch represented Conejo Valley. Paralegal, Holly Hussong attended all dates of the hearing. Stephen Barnes, Director of Special Education, attended all hearing days on Conejo Valley's behalf. On the first day of the hearing, April 28, 2026, Student's attorney, Matthew Harrison, filed a motion for continuance and

notice of withdrawal of counsel. Mr. Harrison was released as Student's counsel. After discussion with the parties, the matter was continued to April 29, 2026. On the second day of the hearing, April 29, 2026, attorney Stanley Apps appeared on behalf of Student. After discussion with the parties, the matter was continued to 11:00 AM the same morning. Mr. Apps filed a notice of representation with OAH. Mr. Apps represented Student on hearing days two and three. Parent attended all three days of the hearing.

At the parties' request, the matter was continued to May 14, 2026, for written closing briefs. The record was closed, and the matter was submitted on May 14, 2026.

ISSUE

May Conejo Valley assess Student pursuant to the March 6, 2026 assessment plan without parental consent?

JURISDICTION

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

- all children with disabilities have available to them a free appropriate public education 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 free appropriate public education, referred to as FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Conejo Valley filed the due process hearing complaint and 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).)

Student was 16 years old and in 10th grade at the time of hearing. Student resided within Conejo Valley's geographic boundaries at all relevant times. Student was a general education student who Conejo Valley suspected of having a disability.

Student's primary language was Romanian. He was designated an English learner. Parents communicated in writing and speaking with Conejo Valley in English.

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ISSUE: MAY CONEJO VALLEY ASSESS STUDENT PURSUANT TO THE MARCH 6, 2026 ASSESSMENT PLAN WITHOUT PARENTAL CONSENT?

Conejo Valley seeks a decision and order authorizing it to assess Student pursuant to its March 6, 2026 assessment plan, without Parents' consent. Conejo Valley contends that Student exhibits behaviors that causes it to suspect Student has a disability and may qualify for special education and related services. Conejo Valley argues it has an affirmative and ongoing child find obligation to identify, locate, and evaluate all children with disabilities who may need special education and related services. It has sought to comprehensively assess Student since the initial assessment plan was sent to Parents in January 2025. Conejo Valley contends it has complied with all statutory requirements for notice of the proposed assessment and made documented, repeated efforts to obtain parental consent without success. Parental rights and procedural safeguards were provided to Parents. Conejo Valley asserts that a comprehensive initial assessment of Student is necessary to determine his eligibility for special education.

Student argues that Parents have a fundamental due process right to direct the upbringing and education of their children. Second, Student argues that under the Fourth Amendment, Student's family has a right to be free of intrusive examinations that qualify as a search and seizure of the family's and Student's private information. Parents have not consented to assessment. They do not want Student assessed due to concern about stigma attached to persons with disabilities and possible future discrimination. Student believes that Conejo Valley requested the assessment in retaliation for Student's reports of school bullying. Student asserts that his behaviors can be adequately addressed through normal disciplinary procedures.

Special education due process proceedings are governed by the IDEA and state law. (20 U.S.C. § 1400 et seq.; Ed Code § 5000 et seq.) Administrative law judges are delegated authority to conduct due process hearings. (34 C.F.R. § 300.511(c); Cal. Ed. Code §§ 56504.5, 56505, subd. (c).) In *Lockyer v. City of San Francisco*, the Supreme Court of California, upheld the long-standing presumption that “a statute, once duly enacted, is ‘presumed to be constitutional’.” ((2004) 33 Cal.4th 1055 [17 Cal.Rptr.3d 225, 95 P.3d 459].) The ALJ’s authority to interpret the constitutionality of a statute is strictly limited. An administrative agency has no power to declare a statute unconstitutional, or refuse to enforce a statute on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional. (Cal. Const. art. III, § 3.5; *California School Boards Assn. v. State of California* (2018) 19 Cal.App.5th 566 [228 Cal.Rptr.3d 430], as modified on denial of reh’g (Feb. 7, 2018), aff’d (2019) 8 Cal.5th 713 [256 Cal.Rptr.3d 590, 454 P.3d 962].)

Here, Student essentially requests a finding from OAH on the constitutionality of the IDEA and state law permitting a school district to perform special education assessments without parental consent. (20 U.S.C. § 1414(c)(3); 34 C.F.R. § 300.300, subd. (c)(1)(ii) (2006); Ed. Code, § 56501, subd. (a)(3).) Student provides no legal authority to support his argument that a special education assessment constitutes a search. Nor does Student provide any legal authority that an administrative law judge is permitted to make a determination on the constitutionality of the statutes. To engage in such an exercise would be an overreach of the authority granted to an administrative law judge by the legislature. Therefore, the constitutionality of the statutes and regulations that authorize school districts to conduct evaluations is outside the scope of this hearing and not addressed in this Decision.

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 individualized education program, referred to as an IEP, for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a) and 56363 subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.) In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000].)

An assessment of the student's educational needs must be conducted before action is taken to place a student with exceptional needs in a special education program. (20 U.S.C. § 1414(a)(1)(A); Ed. Code, § 56320.) An assessment may be initiated by request of a parent, a State educational agency, other State agency, or local educational agency. (20 U.S.C. § 1414(a)(1)(B); Ed. Code, §§ 56302, 56029, subd. (s), 56506, subd. (b).) When conducting initial assessments and triennial assessments, school districts must assess children in all areas of suspected disability and educational need. (20 U.S.C. §§ 1414(a)(1)(A), 1414(b)(3)(B); Ed. Code § 56320, subd. (f).)

School district evaluations of students with disabilities under the IDEA serve two purposes: (1) identifying students who need specialized instruction and related services because of an IDEA-eligible disability, and (2) helping IEP teams identify the special

education and related services the student requires. (20 U.S.C. § 1414(a); 34 C.F.R. §§ 300.301 (2007), 300.303 (2006); Ed. Code § 56043.) The IDEA uses the term evaluation, while the California Education Code uses the term assessment. The terms are interchangeable. (20 U.S.C. § 1414(a); Ed. Code, § 56302.5.)

School districts are required to obtain parental consent for both initial evaluations and reevaluations. However, if parents do not consent to an assessment plan, the school district may request permission from OAH to assess a student by showing at a due process hearing that it is unable to obtain parental consent despite reasonable efforts. (20 U.S.C. § 1414(c)(3); 34 C.F.R. § 300.300(c)(1)(ii) (2006); Ed. Code, § 56501, subd. (a)(3).) The school district must demonstrate at hearing that the child has a suspected disability which warrants an assessment and that the district has complied with all procedural requirements to obtain the parents' informed consent. (34 C.F.R. § 300.300(c)(2)(i), (ii) (2006).

The evidence established that Conejo Valley had reason to suspect Student had a disability requiring special education services. Student's Detail Behavior report and witness testimony established a lengthy history and pattern of behaviors that impacted Student and his peers. Conejo Valley acted on its child find obligation and attempted to assess Student in all areas of need. Despite repeated, reasonable measures taken by Conejo Valley to obtain Parents' informed consent to the March 6, 2026 assessment plan, Conejo Valley was unsuccessful. The March 6, 2026 proposed assessment was necessary. Conejo Valley had experienced, competent assessors available to assess Student. For the below reasons, Conejo Valley may assess Student pursuant to the March 6, 2026 assessment plan without Parents' consent.

CONEJO VALLEY HAD REASON TO SUSPECT STUDENT MAY HAVE A DISABILITY REQUIRING SPECIAL EDUCATION SERVICES.

The IDEA requires that a school district conduct a comprehensive initial assessment when there is reason to suspect that a student may have a disability requiring special education services. (20 U.S.C. Ed. § 1414(a)(1); 34 C.F.R. § 300.301; Code, § 56506). The affirmative, ongoing duty on a school district to identify, locate, and evaluate all children with disabilities residing in the state that need special education and related services is commonly referred to as child find. California law specifically incorporates child find in Education Code section 56301, subdivision (a). Either a parent's suspicion or a district's suspicion may trigger the need for a child find initial evaluation to determine if the student is a child with a disability within the meaning of the IDEA. (*Pasatiempo v. Aizawa* (9th Cir. 1996) 103 F.3d 796, 802.)

A student must be assessed in all areas related to a suspected disability. (20 U.S.C. § 1414(b)(3)(B); Ed. Code, § 56320, subd. (f).) Once a school district is on notice that a child has displayed symptoms of a disability, the district must assess the child to determine the child's educational needs. (*Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1118 - 1120 (9th Cir. 2016).) Such notice may come in the form of concerns expressed by parents about a child's symptoms, opinions expressed by informed professionals, or other less formal indicators, such as the child's behavior. (*Id.* at p. 1120 [citing *Pasatiempo by Pasatiempo v. Aizawa* (9th Cir. 1996) 103 F.3d 796 and *N.B. v. Hellgate Elementary Sch. Dist.*, (9th Cir. 2008) 541 F.3d 1202].)

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STUDENT ENROLLMENT HISTORY AND BEHAVIOR

Student enrolled in Conejo Valley for the 2024-2025 school year in August 2024. Student was previously enrolled in the district from August 26, 2015, to September 18, 2015, and August 23, 2023, to October 20, 2023. During both of Student's prior two enrollment periods, Conejo Valley referred Student for a comprehensive initial assessment. Parents did not provide consent and disenrolled Student from Conejo Valley on both occasions.

Student began attending high school in Conejo Valley on August 21, 2024. On September 20, 2024, a student study team (SST) meeting was held between Conejo Valley staff and Parents. At the meeting, Student's behavior and challenges with understanding directions was discussed. Teacher reports discussed at the SST meeting noted that Student was hyperactive in class and required support. He had difficulty following directions and required that directions be given multiple ways and with repeated reminders. He was resistant to following school rules and procedures and was disruptive in class. Parents believed that his difficulty following directions was due to language differences. Student was exposed to three languages at home. Parent also shared at the SST meeting that Student was easily distracted by his peers and needed to learn how to control it.

Between the period of December 2024 to January 2025, Student had nine reported behavioral incidents. These incidents included difficulty with peer interactions, specifically respecting personal space and understanding social boundaries. Emily Stewart, school psychologist, issued Parents a prior written notice with an assessment plan and parent

rights and procedural safeguards on January 23, 2025, due to ongoing concerns about Student in the classroom and during unstructured time, which included nutrition and lunch.

At the hearing, high school principal, Stephen Lepire testified. Lepire had a bachelor's degree in liberal studies and a master's degree in educational administration with additional credentials. He was in public education for 30 years and the principal of Student's high school for nine years. His duties included supervising staff including the special education coordinator, teachers, and paraprofessionals.

Lepire knew Student since the 2024-2025 school year when Student was a freshman. Lepire received concerns about Student from other staff including the academic counselor, campus supervisors, teachers, and administrators. Student demonstrated difficulty understanding and following directions from teachers and staff. He had outbursts and made inappropriate comments to other students. During unstructured time, Student engaged in inappropriate behaviors such as standing on tables and rolling on the ground in puddles. Student sprinted to lunch to be first in line and avoid other students. He had difficulty with boundaries and respecting others' personal space. For example, he would try to take another person's seat, making physical contact with the other student. Student exhibited sensitivity to light and loud noises as evidenced by his reaction to school drills.

Lepire persuasively testified that Student's behavior caused him and other Conejo Valley staff to suspect Student had a disability. Lepire asserted that it was not typical for a student to have this number of behavior incidents. Conejo Valley used redirection, discussions, and other strategies to address Student's behavior. Regular discipline did

not effectively improve Student's behavior. Lepire explained it was inappropriate to discipline a student for behavior attributed to a disability. Based on the totality of Student's behaviors, Lepire asserted Student needed to be assessed for a disability and potentially special education eligibility.

Conejo Valley special education director, Steven Barnes also testified regarding Student's behavior. Barnes had a bachelor's degree in sociology with a minor in education. He had a master's degree in school psychology and additional credentials. He had 16 years of experience in public education. His duties included meeting with the three special education coordinators on a weekly basis. Barnes established that Student exhibited a clear and consistent pattern of behavior that he would have expected to resolve by high school but had not. Barnes persuasively testified that this pattern of behavior triggered Conejo Valley's child find obligation to assess and serve Student whom he suspected of having a disability. Further, Barnes was concerned Student's behavior was escalating and he had only two more years of high school until he reached adulthood. While Student had passing grades, he had unsuccessful peer relationships, inappropriate behaviors, and did not follow school rules. Barnes asserted Conejo Valley was obligated to look at the whole child and capture all of Student's needs. Lepire's and Barnes' testimony was thoughtful and clear. Therefore, their testimony was given significant weight.

Parents and Student did not testify. Student does not dispute that he has behavioral issues. Student also does not dispute that he may have a disability. Rather, Student asserts he is a sufficiently successful student that he does not need specialized interventions or specialized labels proposed by Conejo Valley to receive a FAPE. Parents believe that it is better for Student to have his behavioral issues addressed through

conventional disciplinary strategies rather than be assessed by Conejo Valley for a disability. Student further argues that he could be subject to discrimination or even future institutionalization if found by Conejo Valley to have a disability. Student's arguments were unsupported and unpersuasive.

The evidence and testimony established that Conejo Valley had reason to suspect Student had a disability requiring special education services.

ASSESSMENT PLANS

The initial January 23, 2025 assessment plan included the areas of

- academics,
- social and emotional development,
- motor skills,
- intellectual development, and
- health.

On January 29, 2025, Parents denied consent to conduct the assessment.

On March 17, 2025, Mother requested an evaluation of Student in the areas of speech and language, self-help, and adaptive skills. Stewart issued a new assessment plan adding speech and language, self-help, and adaptive skills and a functional behavior assessment. The new assessment plan dated March 19, 2025, was sent to Parents with a prior written notice and parent rights and procedural safeguards on March 21, 2025. Parents responded to Conejo Valley clarifying that they were requesting Student only be assessed in the areas of speech and language and self-help and adaptive skills. Parents did not consent to the March 19, 2025, assessment plan.

Student's concerning behaviors continued into the 2025-2026 school year. There were 12 recorded behavior incidents between September and December 2025. According to testimony from Stephen Lepire, Conejo Valley principal, and the Student Detail Behavior Report, Student's behaviors manifested in both the classroom and during unstructured times. Student's peers made numerous formal reports to the school, which were documented in the Student Detail Behavior Report. Multiple students reported feeling "stalked" by Student. Soojin Ro Jew, Student's teacher, testified that one of her students asked her how to obtain a restraining order against Student. The Student reported to Ro Jew that he felt uncomfortable around Student who showed up at his house and went on their property at night. Student continued to follow him around school. Ro Jew referred the student to the school resource officer.

The Student Detail Behavior Report recorded a complaint from Student's female peer who reported Student touched her without her consent and called her his "girlfriend" despite multiple verbal rejections. Another student reported that Student stared at a female peer's thighs and attempted to touch her buttocks. Student initiated inappropriate conversations regarding genitalia and sexual acts with classmates. Student directed racial slurs toward fellow students on more than one occasion.

Student did not follow staff directives to leave areas and leave other students alone. District staff employed multiple interventions including redirection, discussions with Student, a no contact contract and detention, which were ineffective. On March 10, 2025, Student received an off campus suspension for sexual harassment of female students. Lepire described a personal interaction with Student. He explained that that when presented with the no contact contract, Student responded that he "did not like

contracts.” Parents argued that Student’s behavior could be addressed by routine behavior interventions. The evidence showed a pattern of persistent behavioral issues that were unresponsive to routine behavior interventions.

Stewart contacted Parents on December 5, 2025, regarding Conejo Valley’s need to assess Student due to his persistent behaviors. She again provided the March 19, 2025 assessment plan. Parents did not reply.

In February 2026 Conejo Valley received multiple concerning reports from Student’s peers regarding his behavior. On February 8, 2026, two students reported being “stalked” by Student. On February 24, 2026, a group of students reported Student repeatedly approached them during unstructured time after being asked to leave them alone. They asked him to stop, and he spat on a student. Student was instructed to leave the area by campus staff. The incident was recorded in the Detail Behavior Report.

On February 26, 2026, Stewart resent Parents the March 19, 2025, assessment plan. Father responded the same day asking Conejo Valley to stop contacting him regarding assessments. On March 6, 2026, Stewart sent Parent an updated assessment plan dated March 6, 2026. This assessment plan included the same areas of assessment as the March 19, 2025 assessment plan with the addition of vocational and prevocational.

Father responded the same day stating he did not consent.

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MARCH 6, 2026 ASSESSMENT PLAN

The March 6, 2026 assessment plan proposed to assess Student in the following areas:

- pre-academic and academic achievement,
- social and emotional behavior,
- self-help and adaptive skills,
- motor skills development,
- language and speech,
- intellectual development,
- health assessment and vocational and prevocational, and
- functional behavior.

Conejo Valley School psychologist, Emily Stewart, testified extensively regarding the need to assess Student in the areas listed on the assessment plan. Stewart had a bachelor's degree in psychology and a master's degree in education. She had credentials in school psychology, school counseling, and behavior intervention case management. Stewart had been a Conejo Valley school psychologist for 19 years and had been in education for 36 years. She had extensive experience performing psychoeducational assessments including at least 300 initial assessments. Stewart wrote the assessment plan and was personally familiar with Student. She consulted with other district staff and reviewed Student's records. Stewart provided detailed reasoning for Conejo Valley's need to assess Student in the proposed areas. Therefore, her testimony was given significant weight.

Stewart established that assessments in cognitive functioning, academics, and social and emotional behavior constituted the bare bones of an initial assessment. Stewart explained that an assessment of Student in the area of intellectual development was necessary to compare Student's cognitive processing to his academic achievement. Discrepancies in these scores may indicate a learning disorder. Further, even if Student had passing grades, it did not eliminate Conejo Valley's need to assess. Special education eligibility does not hinge exclusively on meeting basic academic competencies.

Conejo Valley Special Education Director, Steven Barnes, also testified persuasively that the district was obligated to look at the whole child and capture their needs. Assessments in academics, cognitive processing, and intellectual development were necessary.

The social and emotional assessment was necessary due to staff concerns of Student's behavior. Student exhibited social difficulty with understanding personal boundaries and social cues. He did not appear to understand instructions and had difficulty following teacher and staff instructions. Student was disruptive, made inappropriate comments, and invaded others' personal space. These behaviors increased during unstructured school time. Stewart established that Student's behavior impacted his classroom functioning and academic career. Even if Student had passing grades, his behavior impacted his ability to be present in the classroom, pay attention and not distract others. His behavior impacted his ability to be present in the classroom, which led to missing classroom instruction. Further, a student's lack of appropriate peer relationships impacts the student's attitude toward school. Parents argued that Student was doing sufficiently well in academics with passing grades. The Behavior Detail report and testimony established that a social and emotional assessment was necessary.

Both Stewart and Conejo Valley behavior specialist, Karli Karamanlian, established that a functional behavioral assessment was necessary. Karamanlian, a board-certified behavior analyst for 11 years, served in that role at Conejo Valley for six years. She had extensive experience performing functional behavior assessments and creating behavior intervention plans. Karamanlian explained that a functional behavior assessment targets behaviors that may interfere with a student's learning or the learning of their peers. The assessor seeks to determine what is the function or purpose of the student's behavior and why. Karamanlian's testimony was clear and detailed. Therefore, it was given significant weight. Parents argued that Student's behavior could be addressed through routine discipline interventions. Due to the length and intensity of Student's behavior and the impact it had on him both in the classroom and during unstructured time a functional behavioral assessment was necessary.

Stewart further established that Student required assessment in motor skills development. The purpose of a motor skill assessment is to evaluate a student's small and large motor functioning and/or psycho-motor skills as related to access and performance in the educational environment. Stewart explained that a motor skills assessment is typically part of a specific learning disability assessment. Further, Student exhibited sensory challenges in the school environment including sensitivity to light and sounds, such as during a school drill. A motor skills assessment was necessary.

Mother requested that Conejo Valley assess Student in speech and language. Stewart and Brooke Yamamura, Conejo Valley's speech and language pathologist, agreed that Student needed a speech and language assessment. Yamamura had her bachelor's degree in communication studies and her master's degree in communicative disorders and sciences. She was a licensed speech and language pathologist and held

multiple certifications, specifically in performing the Autism Diagnostic Observation Schedule (ADOS). She had been with Conejo Valley since 2012 and had been the district's lead speech and language pathologist since 2022. Yamamura's testimony was thoughtful, detailed and clear. Therefore, it was given significant weight.

Conejo Valley's experts agreed with Parents that a speech and language assessment was necessary. The purpose of a speech and language assessment is to determine a student's ability to understand, relate to, and use language and speech clearly and appropriately. Stewart and Yamamura both described Student's need for a speech and language assessment. Yamamura explained that a speech and language assessment included measurements of receptive, expressive and pragmatic language. Pragmatic language assesses how well a person uses language socially and includes how the person engages or interacts with others.

Student exhibited difficulty reading social cues. This was evidenced by behavioral incident reports from other students who requested that Student not interact with or follow them. Student made inappropriate comments and could not understand why the comments were not appropriate. He had persistent challenges with boundaries and understanding personal space. Stewart further explained that a speech and language assessment was required when assessing a student for Autism. There is no dispute between the parties that an assessment in speech and language was necessary, yet Parents did not consent.

Yamamura persuasively explained that it was inappropriate to *only* assess Student in the area of speech and language. There were areas outside the scope of a speech and language assessment such as social/emotional and functional behavior that were necessary. Yamamura's testimony was consistent with Stewart's.

Stewart established that Conejo Valley was obligated to assess Student in all areas of need to determine whether he met criteria for special education and related services. An assessment in speech and language was necessary. An assessment of Student *only* in the areas requested by Parents, speech and language and self-help and adaptive skills, would be incomplete and fail to take into consideration the whole child.

In addition to the speech and language request, Parents also requested an assessment in self-help and adaptive skills. The purpose of an assessment in self-help and adaptive skills is to evaluate how the student functions in daily life activities needed in the educational setting. Stewart agreed with Parents that an assessment in this area was necessary. The assessment would provide information on Student's ability to follow routines at school and perform self-care. There was no dispute between the parties regarding Student's need for a self-help and adaptive skills assessment, yet again Parents did not consent.

Stewart and Conejo Valley school nurse, Catherine Kalev testified regarding Student's need for a health assessment. Kalev had a bachelor's degree in nursing and a school nurse credential. As part of her duties, she oversaw three schools and supervised school aides. She was involved with the development of 504 and IEP plans for students in Conejo Valley. She had been a school nurse at Conejo Valley for 20 years. Kalev testified that she worked with Father to create a health plan for Student due to a seizure disorder. She explained that completion of a health assessment was typical for an initial evaluation and included hearing and vision screening. Student had never been assessed by Conejo Valley and had a serious medical condition which required a school health

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plan. Kalev was familiar with Student and his condition. Her testimony was direct and supported by the evidence. Therefore, it was given significant weight. A health assessment was necessary.

Stewart testified that a vocational and prevocational assessment was appropriate because Student is in high school. It was typical to include a vocational assessment for high school students. The assessment was used to determine a student's individual interests and aptitudes as related to future job and career preparation. Conejo Valley high school principal, Stephen Lepire, explained that it was the school's role to prepare students for post-secondary life. Beginning at age 16 or younger, an IEP must include a statement of needed transition services for the student. (Ed. Code, § 56345, subd. (a)(8).)

The IEP in effect when a student reaches 16 years of age must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills. (20 U.S.C. § 1414(d)(1)(A)(i)(VIII); Ed. Code, §§ 56043, subd. (g)(1), 56345, subd. (a)(8).) The plan must also contain the transition services needed to assist the pupil in reaching those goals. (34 C.F.R. § 300.320(b); Ed. Code, § 56345, subd. (a)(8). This requirement is sometimes referenced as a "transition plan." (See e.g., *K.C. v. Nazareth Area Sch. Dist.* (E.D. Pa. 2011) 806 F.Supp.2d 806.) If Student is found eligible for special education and related services, conducting the vocational assessment as part of the initial assessment plan will allow the IEP team to develop this necessary component. Therefore, a vocational and prevocational assessment was necessary.

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Student contends that the examinations proposed by Conejo Valley will upset and frustrate Student. Parents objected to Student being evaluated by school professionals who are not doctors or scientists. Student argued the evaluators are unqualified to make the type of diagnostic findings they purport to make. However, Student called no witnesses to testify nor sought to admit any documentary evidence. Thus Student provided no testimony or documentary evidence to support the position that Student will be harmed by the assessments or that the Conejo Valley does not have qualified examiners.

For the above reasons, Conejo Valley proved by a preponderance of evidence that an initial assessment of Student in the areas of pre-academic and academic achievement, social and emotional behavior, self-help and adaptive skills, motor skills development, language and speech, intellectual development, health assessment, vocational/prevocational, and functional behavior was necessary.

CONEJO VALLEY COMPLIED WITH PROCEDURAL REQUIREMENTS.

To obtain parental consent for an assessment, the school district must provide proper notice to the parent. (20 U.S.C. § 1414(b)(3) and (c)(1); Ed. Code, § 56321, subd. (a).) The notice consists of the proposed assessment plan and a copy of parental rights under the IDEA and related state law. (20 U.S.C. §§ 1414(b)(1); 1415(b)(3) and (c)(1); Ed. Code, § 56321, subd. (a).) The assessment plan must:

- Be in language easily understood by the general public;
- Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do is clearly not feasible;

- Explain the types of assessments to be conducted; and
- State that no individualized education program will result from the assessment without the consent of the parent.

(Ed. Code, § 56321, subds. (b)(1)-(4).)

The assessment plan must be accompanied by notice that advises parents that an IEP team meeting will be scheduled to discuss the assessment results and recommendations. (Ed. Code § 56329, subd. (a)(1).) The school district must give the parent 15 days to review, sign, and return the proposed assessment plan. (Ed. Code, § 56321, subd. (a).)

School districts must follow statutory guidelines that dictate both the content of assessments and the qualifications of the assessors. The procedural safeguards ensure that evaluations achieve “a complete result that can be reliably used to create an appropriate and individualized educational plan tailored to the needs of the child.” (*Timothy O. v. Paso Robles Unified Sch. Dist.* (9th Cir. 2016) 822 F.3d 1105, 1110.) Individuals who are both knowledgeable of the student’s disability and competent to perform the assessment, as determined by the school district, county office, or special education local plan area, must conduct assessments of a student’s suspected disabilities. (20 U.S.C. § 1414(b)(3)(B)(ii); Ed. Code, § 56320, subd. (g).)

Here, Conejo Valley’s assessment plan dated March 6, 2026, complied with the necessary procedural requirements. Conejo Valley’s March 6, 2026 letter to Parents contained the March 6, 2026 assessment plan, and a written explanation of parent rights and procedural safeguards under the IDEA and state law. The assessment plan was provided in language easily understood by the general public. All the documents were

in English, the language in which Parents communicated at the hearing and in which Parents communicated with Conejo Valley, as demonstrated by Parents' written email communication with Conejo Valley. The assessment plan described the types of assessments Conejo Valley proposed to conduct, using qualified assessors. It explained that assessment activities may include

- student observation in a group setting,
- classroom work samples,
- district or statewide group assessments,
- individualized testing, and
- teacher and parent interviews.

It may also include a review of reports provided by Parents or that already exist in Student's current records. The plan further explained that within 60 days of receipt of the signed assessment plan an Individualized Education Program (IEP) team meeting would be held, which Parents would be invited to attend, review assessment plan results and participate in determining Student's educational needs and eligibility for special education services. The assessment plan stated that an IEP would not result from this assessment without Parents' consent.

The March 6, 2026, assessment plan states that Student's primary language is Romanian, and he is an English learner.

Conejo Valley's March 6, 2026 letter attaching the March 6, 2026 assessment plan did not provide a deadline by which Parents needed to respond. However, the attached parental rights and procedural safeguards notified Parents that they had 15 calendar days to consent. Father responded to Conejo Valley the same day via email stating that

he did not consent to the assessment plan. Conejo Valley filed for due process to obtain an order allowing it to assess Student pursuant to the March 6, 2026 assessment plan, on March 25, 2026. Therefore, Parents had more than adequate time to review, consider, and give consent to the March 6, 2026, assessment plan

CONEJO VALLEY MADE REASONABLE EFFORTS TO OBTAIN PARENTS' CONSENT TO THE MARCH 6, 2026 ASSESSMENT PLAN.

Evaluation of a student generally requires informed parental consent. (20 U.S.C. § 1414(c)(3); Ed. Code, § 56381, subd. (f)(1).) However, informed parental consent is not required if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the parent has failed to respond. (Ed. Code, § 56506, subd. (e.); 34 C.F.R. § 300.300(c)(2) (2006).) To demonstrate that it took reasonable measures, the school district must keep detailed records of telephone calls, copies of correspondence and any responses received, and records of visits made to the parent's home or place of employment and the results of those visits, and the use of interpreters, as appropriate. (Ed. Code, § 56381, subd. (f)(2), 34 C.F.R. § 300.322(d) (2006).)

On January 23, 2025, Conejo Valley's school psychologist, Stewart, issued Parents a prior written notice with an assessment plan and parent rights and procedural safeguards, to determine Student's eligibility for special education and related services. On January 29, 2025, Parents returned the assessment plan denying consent to conduct the assessment. On March 17, 2025, Mother, sent an email to Conejo Valley requesting an IEP meeting, accommodations, and supports. The email also requested modifications to Student's IEP; however, Student was a general education student.

Conejo Valley understood Mother's email to be a request for assessment. Conejo Valley issued a new assessment plan dated March 19, 2025, which added a functional behavior assessment. Stewart sent Parents the new assessment plan with a prior written notice and parent rights and procedural safeguards via email on March 21, 2025. The assessment plan was sent to Parents for electronic signature on March 21, March 27, and April 1, 2025. On April 2, 2025, Father emailed Stewart and instructed Conejo Valley to not send personally identifiable information through a third party service. The same day, school principal, Lepire responded to Father's email notifying him that he could come into the school office and sign the assessment plan the next day.

On April 2, 2025, Stewart spoke with Tova Cooper, Student's educational advocate. Cooper did not testify at the hearing. Stewart emailed Parent stating that the advocate indicated Parents requested adaptive skills and speech and language be added to the assessment plan. Stewart additionally asked for confirmation as to whether Parent would sign the assessment plan electronically or in person the next day. Later that day, Father responded that they were requesting that *only* adaptive skills and speech and language be included in the assessment plan. Stewart responded to Father by email with a copy of the District Release of Information for Student's advocate so that Conejo Valley could contact her and discuss the proposed assessment. Stewart followed up again with Parent on April 4, 2025, regarding the release of information form for Student's advocate. Parents did not return the signed release of information form and Stewart had no further contact with the advocate. Parents did not consent to the March 19, 2025 assessment plan.

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The following school year on December 5, 2025, Stewart resent Parents the March 19, 2025 assessment plan, a prior written notice dated December 5, 2025, and parent rights and procedural safeguards via email. Parents did not respond to Stewart's email.

On February 26, 2026, Stewart again sent Parents an email with the March 19, 2025 assessment plan, a prior written notice dated February 26, 2026, and parent rights and procedural safeguards. On February 26, 2026, Father responded to Stewart's email requesting that Conejo Valley, "cease and desist from contacting me with repeated proposals for evaluations." On March 6, 2026, Tracy Rose, Conejo Valley special education coordinator, sent Parents one last letter via certified mail and email requesting to assess Student. This correspondence served as Conejo Valley's prior written notice and enclosed a copy of the March 6, 2026 initial assessment plan and parent rights and procedural safeguards. Father responded via email to Conejo Valley the same day in which he stated that he did not consent to the assessment plan as drafted.

Parents did not provide their written consent to Student's March 6, 2026 assessment plan. On March 25, 2026, Conejo Valley filed the due process complaint seeking to assess Student without parental consent. Parent had numerous opportunities to consent to the three assessment plans Conejo Valley offered. Conejo Valley considered Parent's request for adaptive skills and speech and language assessments by adding them to the assessment plan.

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Conejo Valley established that it took repeated, reasonable measures to obtain Parents' informed consent to its assessment plan for Student. Parents declined to provide consent, going so far as to accuse Conejo Valley of harassment. Conejo Valley fully informed Parents of why it needed to assess Student and what areas it would assess him in. Conejo Valley's evidence included testimony, records of emails, and letters to Parents.

The evidence established that Conejo Valley made repeated attempts over the course of a year to obtain Parents' consent to an initial evaluation of Student.

COMPETENT ASSESSORS AVAILABLE

Conejo Valley contends that it offered qualified, competent assessors to conduct the assessments described in the above assessment plan.

Assessments must be conducted by persons competent to perform them, as determined by the local agency. (20 U.S.C. § 1414(b)(3)(A)(iv); 34 C.F.R. § 300.304(c)(1)(iv) (2006); Ed. Code, § 56322.) Any psychological assessments of pupils shall be made in accordance with Education Code section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed. (Ed. Code § 56324, subd. (a).)

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Materials and procedures must be selected and administered so as not to be racially, culturally, or sexually discriminatory, and must be given in the student's native language or mode of communication unless it is not feasible to do so. (Ed. Code, § 56320, subd. (a).) Assessments must also meet the following requirements:

- 1) are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible;
- 2) are used for purposes for which the assessments or measures are valid and reliable; and
- 3) are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments. (Ed. Code, § 56320, subd. (b).)

Conejo Valley school psychologist, Emily Stewart prepared the March 6, 2026 assessment plan and testified that she would conduct assessments in the areas of intellectual development, social and emotional, motor skills, and self-help and adaptive skills. As established earlier in this Decision, Stewart was a credentialed and experienced school psychologist. She was trained and experienced in conducting initial assessments and reassessment using a variety of assessment tools. Stewart was familiar with Student and reviewed his records. She carefully explained the testing she would perform to determine Student's dominant language. If it was determined that Student's dominant language was Romanian, she would use the assistance of an interpreter to administer

the assessment tools. No finding is made that Stewart must conduct the assessment. Rather, the evidence established that Conejo Valley has school psychologists, like Stewart, who are competent to perform the assessments in these areas.

Conejo Valley district nurse, Catherine Kalev, testified that she would administer Student's health assessment. As established earlier in this Decision, Kalev was an experienced credentialed school nurse with a registered nurse license. She was familiar with Student and his medical condition. Again, no finding is made that Kalev must conduct Student's health assessment. The evidence established that Conejo Valley employs nurses, like Kalev, who are competent to perform Student's health assessment.

Conejo Valley special education teacher, Soojin Ro Jew, testified that she would conduct the academic and vocational/prevocational assessments. Ro Jew had a bachelor's degree in psychology with a minor in teacher education. She had a master's degree in special education. Ro Jew was an experienced special education teacher and had worked for Conejo Valley since 2021. Ro Jew taught both general education and special education classes. She was trained and experienced in conducting academic and vocational assessments. No finding is made that Ro Jew must conduct Student's academic and vocational/prevocational assessments. The evidence established that Conejo Valley employs general education and special education teachers who are competent to perform Student's academic and vocational/prevocational assessments.

Conejo Valley behavior specialist, Karli Karamanlian, testified that she would administer the functional behavior assessment. As established earlier in this Decision, Karamanlian was an experienced board certified behavior analyst (BCBA). She was trained and experienced in conducting initial functional behavior assessments and

reassessments using a variety of assessment tools. Karamanlian carefully explained her assessment process which included interviews of Parents and teachers and direct observation of Student across multiple class periods. No finding is made that Karamanlian must conduct Student's functional behavior assessment. Conejo Valley established that it employs board certified behavioral analysts who are competent to perform Student's functional behavior assessment.

Conejo Valley's lead speech pathologist, Brooke Yamamura, testified that she would perform the speech and language assessment. As established earlier in this Decision, Yamamura was an experienced licensed speech pathologist. She was trained and experienced in using a variety of assessment tools. Yamamura extensively testified to the various assessment tools she used to assess different areas of speech. Because Student was an English learner Yamamura explained how she would determine Student's dominant language. Yamamura described the need to rule out language differences versus an actual language disorder in English learners. She would attempt to assess Student in all his known languages to determine if he was missing skills in English or suffered from deficits across languages. Yamamura persuasively explained how she would appropriately assess Student in speech and language given the concerns raised by his English learner status. No finding is made that Yamamura must conduct Student's speech and language assessment. Conejo Valley established that it employs qualified speech pathologists who are competent to perform Student's speech and language assessment.

Conejo Valley anticipates the individuals who testified will conduct the proposed assessments. However, even if those individuals are not available, Conejo Valley established that it employs assessors who were trained, experienced, and appropriately

licensed or credentialed to conduct assessments in their respective areas of competence. Conejo Valley established it had assessors qualified to assess in all areas identified in the assessment plan.

Conejo Valley proved by a preponderance of the evidence that Student had a suspected disability that required an initial assessment. The March 6, 2026 assessment plan contained the required components and was accompanied by the notice of parent rights and procedural safeguards. Conejo Valley complied with the procedural requirements to obtain Parents' consent and took reasonable measures to obtain that consent, which Parents declined to provide.

Conejo Valley may assess Student without Parents' consent.

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

Conejo Valley may assess Student pursuant to the March 6, 2026 assessment plan without parental consent

Conejo Valley prevailed on the sole issue for hearing.

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ORDER

1. Conejo Valley may assess Student according to the March 6, 2026 assessment plan without Parents' consent. Parents shall not limit the areas of assessment.
2. Conejo Valley shall notify Parents in writing within 15 business days of the date of this Decision, of the days, times, and places Student is to be present for assessment. Parents shall reasonably cooperate in ensuring Student is present on the indicated days, times and places.
3. Parents shall timely complete and return any documents reasonably requested by Conejo Valley as part of the assessments.

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.

Katherine Roe

Administrative Law Judge

Office of Administrative Hearings