BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LAS VIRGENES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025090649

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE

APRIL 20, 2026

On April 17, 2026, Administrative Law Judge Daniel Senter, 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.

Parent appeared on behalf of Student. Attorneys Julie Coate and Siobhan Cullen appeared on behalf of Las Virgenes 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 DISMISS

At the PHC, Las Virgenes moved to dismiss Student's case for failure to prosecute. Las Virgenes asserted that Student failed to upload any evidence to Case Center. In addition, Las Virgenes contended Student's issues had not yet been clarified for hearing, and there was only one business day prior to hearing. As a result, Las Virgenes asserted that it did not know what evidence Student intended to present or what issues Student intended to litigate.

Parent contended that she had already uploaded evidence to OAH and emailed evidence to Las Virgenes.

If the parent and local education agency have not resolved the due process complaint within 30 days of receipt of the complaint, OAH is required to issue a decision within the next 45 days, unless a continuance is granted for good cause. (20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.51; Ed. Code, § 56502, subd. (f).) Given the short time frame applicable to this case, it is critical that the parties follow orders issued by OAH and participate in advancing the matter to hearing or resolution. Because Student filed the complaint, Student has a duty to prosecute the case. Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as, civil rights claims, section 504 claims, or enforcement of settlement agreements, special education law does not provide for a summary judgment procedure.

At the PHC, the ALJ denied the motion to dismiss on the record. As discussed below, the ALJ continued the hearing for one week, given that OAH had made an inadvertent scheduling error by scheduling the PHC only one business day before hearing and based on due process grounds to allow the parties to exchange evidence and witnesses after the issues had been clarified at the PHC.

In addition, though Parent represented she had already uploaded and exchanged evidence, it became apparent during the PHC that Parent was confused about where to upload evidence. She had attempted to upload documents intended as evidence to OAH's Secure File Transfer System, rather than Case Center. The ALJ informed Parent that Case Center is a separate system and evidence must be uploaded to Case Center, not the Secure File Transfer System. For all these reasons, Las Virgenes failed to prove that the absence of clarified issues and uploaded Student evidence was due to a failure to prosecute, and Las Virgenes' motion was denied.

CONTINUANCE

At the beginning of the PHC, the ALJ informed the parties that it appeared OAH had made an inadvertent error in scheduling the hearing for April 21, through 23, 2026, rather than the following week, April 28, through 30, 2026. Typically, the prehearing conference date is scheduled within 5 to 10 business days of the beginning of the first day of hearing. Accordingly, the ALJ informed the parties that he was inclined to continue the matter for one week, to enable the parties to prepare for hearing, including to clarify the issues and exchange evidence consistent with the statutory requirement.

Student supported a continuance. Las Virgenes opposed, asserting that it was prepared to proceed on the hearing dates as scheduled. In addition, it cited a conflict with a later filed case also scheduled for hearing on April 28, 29, and 30.

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 the unavailability of a party, counsel, or an essential witness due to

death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; 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, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

The ALJ continued the hearing to April 28, through, 30, 2026, on due process grounds. As Las Virgenes acknowledged, the issues were not clarified before the PHC. Both parties should have notice of the finalized issues before the deadline to upload exhibits passes. Due to the inadvertent scheduling error, both parties were deprived that opportunity. Both raised it as an issue, in that Parent had difficulty knowing how to upload evidence which is covered in the Order, and Las Virgenes complained about not knowing the issues or receiving Student's exhibits for hearing. For those reasons, the ALJ found due process required the continuance. In addition, this case was filed prior to the case cited by Las Virgenes, so it takes precedence.

DUE PROCESS HEARING

The hearing will take place on April 28, 29, and 30, 2026, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally

end at 3:30 PM, unless otherwise ordered. The parties anticipate it will take one to five days to complete the hearing. Additional hearing dates will be discussed with the ALJ during the hearing.

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 ALJ has clarified and reorganized the statement of some issues as allowed by the holdings in *J.W. v. Fresno Unified Sch. Dist.* (9th Cir. 2010) 626 F.3d 431, 442-443, and *Ford v. Long Beach Unified Sch. Dist.* (9th Cir. 2002) 291 F.3d 1086, 1090. No change in substance has been made.

A party believing that an issue has been misstated or improperly omitted shall promptly file a notice in writing, prior to the first day of hearing, stating its concern and

referring to supporting portions of the complaint. No motion to amend the issues may be made for the first time at the hearing.

In this Order, free appropriate public education is referred to as FAPE. Individuals with Disabilities Education Act is referred to as IDEA. Individualized education program is referred to as IEP.

At the PHC, and as discussed below, a number of Student's issues set forth in Student's PHC statement were either not contained in, or not supported, by the complaint, and thus, were not included in this Order. Other issues were excluded from this Order because they were either redundant, vague, or over which OAH lacked jurisdiction. Parent asserted that her prior attorney, who was no longer representing her, drafted the complaint. Ultimately, who drafted the complaint does not determine whether issues are properly pled or within OAH's jurisdiction.

The issues at the due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the PHC are:

ISSUES

1) Did Las Virgenes deny Student a FAPE from September 16, 2023, through the end of the 2023-2024 school year, including extended school year, by:
    a) Failing to assess Student in all suspected areas of disability, specifically speech and language, assistive technology, and behavior;
    b) Failing to offer applied behavior analysis services and assistive technology training;
    c) Failing to offer sufficient speech and language and occupational therapy services; and
    d) Failing to offer an appropriate placement?

2) Did Las Virgenes deny Student a FAPE during the 2024-2025 school year, including extended school year, by:

   a) Failing to assess Student in all suspected areas of disability, specifically speech and language, assistive technology, and behavior;

   b) Failing to offer applied behavior analysis services and assistive technology training;

   c) Failing to offer sufficient speech and language and occupational therapy services; and

   d) Failing to offer an appropriate placement?

3) Did Las Virgenes deny Student a FAPE during the 2025-2026 school year through September 15, 2025, by:

   a) Failing to assess Student in all suspected areas of disability, specifically speech and language, assistive technology, and behavior;

   b) Failing to offer applied behavior analysis services and assistive technology training;

   c) Failing to offer sufficient speech and language and occupational therapy services; and

   d) Failing to offer an appropriate placement?

At the PHC, in reviewing page five of Student's PHC statement with both parties regarding issue one, Student failed to identify "related services" as a suspected area of disability for which no assessment was conducted in the complaint, so "related services" was not included in the above clarified issue number one. Regarding issue two, Las Virgenes objected to the inclusion of the sub-issues addressing American sign language and tutoring services, as Las Virgenes asserted these were not alleged in the complaint. Student failed to identify these issues in the complaint, so these sub-issues were not included in this Order.

Student also failed to show that issue three in Student's PHC statement regarding a failure to implement was contained in the complaint, and Student failed to identify any IEPs in the complaint at the PHC that Student alleged were not implemented. Accordingly, issue three was not included in this Order. Issues four and six were also not included, as both articulated vague, general points of law or legal standards, rather than specific issues, and Student failed to identify any specific legal issues captured by issues four and six in the complaint. Issue five was excluded, for lack of jurisdiction over Student's discrimination claim. Student's issue eight was not included, as it set forth a remedy rather than a legal issue.

PROPOSED RESOLUTIONS

The resolutions requested by Student include reimbursement, compensatory education, independent educational evaluations, and prospective placement and services funding.

RESPONSE

Las Virgenes filed its response to Student's complaint on December 2, 2025. (*M.C. v. Antelope Valley Union High 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 at OAHSEOps@dgs.ca.gov.

Counsel for Las Virgenes noted access for Case Center for this case is set to expire on April 30, 2026. OAH shall review Case Center access duration for this case for both parties. The ALJ also clarified that Las Virgenes may upload or amend its already uploaded evidence to Case Center up to the statutory deadline and consistent with orders in this case.

The ALJ clarified for Parent that the OAH Secure File Transfer system is a different system than Case Center. The ALJ informed Parent she must upload her evidence to Case Center.

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. Las Virgenes must use the letter D before the number to identify Las Virgenes' exhibits. For example, S-1 means Student's exhibit 1 and D-1 means Las Virgenes' 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 or letters may be consolidated into one exhibit if they are part of a single chain of messages. Exhibits should be in chronological order.

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

Las Virgenes exhibits must include a copy of the school calendar for each school year in question.

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.

The ALJ informed Parent that Student's PHC statement did not sufficiently identify her witnesses for hearing, as she provided the names of entities rather than names of individual witnesses from each entity. The Scheduling Order for this case

requires the name of each witness the party may call at the due process hearing in the PHC statement. The ALJ informed Parent that she must provide the names of Student's witnesses to Las Virgenes in Student's witness list.

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, may find informative instructions on at 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 videoconference 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 videoconference 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 for calling 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 hear.

The parties are ordered to meet and confer no later than 5:00 PM on April 22, 2026, to discuss scheduling witnesses and how much time each witness will take. 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 should attempt to eliminate duplicate exhibits from their hearing exhibits. 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, Las Virgenes will inform Student which proposed witnesses are Las Virgenes' employees. Las Virgenes shall also identify the witnesses on Student's list that require a subpoena. Cooperation in providing access to witnesses is expected.

PARTICIPANT INFORMATION FORM

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.

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

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 Las Virgenes, unless otherwise ordered.

WITNESS LISTS

The parties must provide a joint proposed witness list to the ALJ on the first day of hearing. The list should include the first and last name of the witness, which party is calling the witness to testify, and include dates and time estimates of each witness's expected testimony. In the event an agreement cannot be reached, each party shall prepare a separate written list. Student must have witnesses available in case there is no agreement.

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

Both parties requested permission to make an audio recording of the hearing. Permission to make an audio recording is granted, subject to 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 that the ALJ is 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.

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.

Parent represented that she may seek to upload a video recording as evidence. The ALJ informed Parent that any request to submit a recording shall be considered at the time of hearing. However, nothing in this order relieves Student from complying with timely evidentiary disclosure rules.

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

Any party seeking reimbursement for expenditures shall present admissible evidence of these expenditures, or a stipulation to the amount of the expenditures. A party seeking compensatory education should provide evidence regarding the type, amount, duration, and need for any requested compensatory education. 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 to the videoconference 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 representative and witnesses are prohibited from passing notes to, exchanging electronic messages with, or signaling the witness in any way while the witness is testifying.

LANGUAGE INTERPRETERS AND REASONABLE ACCOMMODATIONS

Neither party requested an accommodation or a language interpreter for 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 CLOSED TO THE PUBLIC

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

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 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.

Daniel Senter

Daniel Senter
Administrative Law Judge
Office of Administrative Hearings