BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026031036

ORDER FOLLOWING PREHEARING CONFERENCE FOR NON-EXPEDITED HEARING BY VIDEOCONFERENCE; DENYING MOTION TO DISMISS ISSUE 1; DENYING MOTION TO BIFURCATE ISSUE 2; DENYING REQUEST FOR STATUS AND COMPLIANCE CONFIRMATION; AND DENYING REQUEST FOR PROCEDURAL CLARIFICATION REGARDING DISTRICT SUBPOENA

JUNE 29, 2026

On June 26, 2026, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings, held a non-expedited 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.

Parents and Student appeared on behalf of Student, accompanied by advocate Steven Figueroa. A Spanish language interpreter was provided by OAH. Attorney Jack Clarke appeared on behalf of Riverside Unified School District, called Riverside. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

NON-EXPEDITED HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

The non-expedited hearing will take place on July 8 and 9, 2026, and continue day to day at the discretion of the ALJ. The hearing will 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 two 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 must immediately notify all potential witnesses of the hearing dates and must 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 non-expedited due process hearing, and proposed resolutions, as alleged in the complaint and clarified by the parties and the ALJ during the non-expedited PHC, are stated below. A free appropriate public education is called a FAPE. An individualized education program is called an IEP.

ISSUES

1. Did Riverside deny Student a FAPE by failing to convene an IEP team meeting to consider supports and services for Student as agreed between Parent and Riverside on October 6, 2025?
2. Did Riverside deny Student a FAPE from December 2024 through March 19, 2026, by failing to appropriately assess Student in all areas of suspected educational need, including attention, autism-related needs, social emotional concerns, and behavior?

PROPOSED RESOLUTIONS

The resolutions requested by Student include compensatory education, reimbursement for an educationally related assessment, independent educational evaluations, and prospective service and supports.

Riverside filed its response to Student's complaint on May 27, 2026. (*M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

EXHIBITS

The parties must serve their exhibits on each other in compliance with Education Code section 56505, subdivision (e)(7). The parties must 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.

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) will 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. Riverside must use the letter D before the number to identify Riverside's exhibits. For example, S-1 means Student's exhibit 1 and D-1 means Riverside'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 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.

Electronic copies of exhibits filed with OAH must 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 must serve their list of witnesses on each other in compliance with Education Code section 56505. No party will 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, 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 must 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 July 2, 2026, at 5:00 PM, to discuss scheduling witnesses and how much time each witness will take. The parties must 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 must 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, Riverside must inform Student which proposed witnesses are Riverside employees. Riverside must also identify the witnesses on Student's list that require a subpoena. Riverside may agree to accept service for a witness under Riverside's control or provide Student with the witness's most recent contact information.

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

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 must 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 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 on the non-expedited issues. Student's case-in-chief will be presented first, followed by Riverside, 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 must 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 must 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 must 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 must not take screenshots of the videoconference nor share or publish any portion of the videoconference or audio recording.

Student's and Riverside's requests to make an audio recording of the hearing are granted, subject to these conditions.

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 will 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

Any party seeking reimbursement for expenditures must 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

RIVERSIDE'S MOTION TO DISMISS ISSUE 1

On June 23, 2026, Riverside filed a motion to dismiss Issue 1 as outside OAH jurisdiction because Student seeks to enforce a settlement agreement between the parties. On June 24, 2026, Student filed an opposition, arguing that Student does not seek contract enforcement or contract damages, but a finding that Riverside's failure to act as agreed deprived Student of the evaluation, IEP process, and FAPE the agreement was intended to ensure. Riverside was given an opportunity to argue on the record at the PHC.

A party has the right to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to such child. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist*. (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) The proper avenue to enforce noncompliance with a settlement agreement is the California Department of Education's compliance complaint procedure. (*Id*., at 1030; Cal. Code Regs., tit. 5, § 4600, et. seq.) However, in *Pedraza v. Alameda Unified Sch. Dist*. (N.D. Cal. 2007, No. C 05-04977 VRW) 2007 WL 949603, the district court held that OAH has jurisdiction to adjudicate claims alleging denial of a FAPE as a result of a violation of a settlement agreement, as opposed to

merely a breach of the settlement agreement that should be addressed by the California Department of Education's compliance complaint procedure.

Here, Student alleges as a result of the breach of a informal dispute resolution agreement, which was moved into evidence by Riverside in the expedited hearing, Student was not timely or appropriately assessed, his educational needs were not seriously considered by the IEP team, and he was denied a FAPE. This is not an issue limited to enforcement of a settlement agreement, but one alleging the denial of FAPE as the result of a breach that is well within the jurisdiction of OAH. Accordingly, Riverside's motion to dismiss issue 1 is denied.

RIVERSIDE'S MOTION TO BIFURCATE ISSUE 2

On June 23, 2026, Riverside filed a motion to bifurcate Issue 2 to have Riverside's defense of Student's Issue 2, that Parents entered into a contractual waiver of the right to request assessments, heard first. Riverside argues that if the ALJ is persuaded by Riverside's evidence, there will be no need to hear Student's evidence. On June 24, 2026, Student filed an opposition, arguing the issue of assessments is too intertwined with the issue of Student's eligibility to be bifurcated.

An ALJ may bifurcate the issues in furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy. (Gov. Code, § 11507.3, subd. (b).) Here, Student estimates his case will take one, maybe two, days and Riverside concedes the settlement agreement is already in evidence from the expedited hearing. Riverside makes no showing that it will be more expedient or economical to bifurcate a hearing with such a short estimate, and the ALJ is disinclined to make a ruling on Issue 2 without hearing Student's evidence. Accordingly, Riverside's motion to bifurcate Issue 2 is denied.

STUDENT'S REQUEST FOR STATUS AND COMPLIANCE CONFIRMATION

On June 26, 2026, Student filed a request for status and compliance confirmation regarding the June 24, 2026 expedited decision. Student wants to know what action Riverside's Board intends to take in light of the decision, and the status of Student's expulsion proceedings. At the PHC, the ALJ explained that OAH does not enforce its decisions, and that Student may contact the California Department of Education regarding enforcement of OAH decisions. The ALJ also informed Parent that OAH is not involved in any school district's internal affairs. The ALJ suggested that Parent contact Riverside's attorney about actions Riverside intends to take, or ask Riverside's attorney for a school-based contact to obtain information about Student's expulsion status.

STUDENT'S REQUEST FOR CLARIFICATION RE PAST SUBPOENA

On June 26, 2026, Student filed a request for procedural clarification regarding Riverside's subpoena to Alexa Gonzalez. Student questions whether Riverside relied on Ms. Gonzalez as a percipient witness or expert witness when she testified in the expedited hearing on June 9, 2024. Student cites no authority for seeking such a determination. Accordingly, Student's request is denied.

No other prehearing motions are pending or contemplated. Any motion that was not filed three business days before the PHC must 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 must 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

Student requested a Spanish language interpreter. OAH will provide the interpreter. No other accommodations were requested.

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 email should have the words 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 must 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 must 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 must 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 must 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.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings