

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

V.

CORONA-NORCO UNIFIED SCHOOL DISTRICT.

CASE NO. 2026051154

NON-EXPEDITED DECISION

August 28, 2026

On May 26, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student naming the Corona-Norco Unified School District, called Corona-Norco. The complaint contained expedited and non-expedited hearing claims. OAH bifurcated the hearing of the issues, and set the expedited issues for hearing on June 16, 17, and 18, 2026. ALJ Charles Marson heard the expedited issues on those dates without continuance, and OAH issued a Decision on the expedited issues on July 1, 2026.

On August 4, 2026, ALJ Charles Marson held the non-expedited portion of the hearing by videoconference. There was no appearance for Student. Dee Anna Hassenpour and Jasey L. Mahon, Attorneys at Law, represented Corona-Norco. Dawn

Rust, Corona-Norco's Administrative Director, attended the hearing on August 4, 2026, on behalf of Corona-Norco. The non-expedited portion of the hearing was adjourned, and the record was closed, on August 4, 2026.

In this non-expedited Decision a free appropriate public education is called a FAPE, and an individualized education program is called an IEP.

NON-EXPEDITED ISSUES

1. Did Corona-Norco deny Student a FAPE in the 2025-2026 school year by:
 - A. failing to offer a legally sufficient IEP that adequately addressed his known behavior deficits;
 - B. failing to conduct a functional behavior assessment; and
 - C. failing to offer a legally sufficient behavior intervention plan?

PROCEDURAL HISTORY

Administrative Law Judge Charles Marson heard the expedited portion of this matter on June 16, 17, and 18, 2026, by videoconference. On June 18, 2026, the expedited portion of the hearing was concluded, and the expedited issues were submitted for decision. The ALJ allowed the parties to file closing arguments within 10 school days, but did not continue the matter. The parties timely filed closing arguments on June 29, 2026. On July 1, 2026, OAH issued a Decision on the expedited issues. That expedited Decision found that Corona-Norco had prevailed on both of the expedited issues heard.

OAH set the non-expedited issues for hearing on August 4, 5, and 6, 2026. On July 1, 2026, Student filed a request to dismiss the non-expedited issues without prejudice. On July 3, 2026, OAH denied the motion without prejudice in an order explaining that the hearing on the expedited and non-expedited issues was a single hearing in two parts, that the hearing had begun on June 16, 2026, and that a voluntary dismissal after a hearing had begun could only be granted with prejudice.

On July 27, 2026, OAH held a prehearing conference on the non-expedited issues. Parent appeared for Student. Attorneys Hassenpour and Mahon appeared for Corona-Norco. On July 30, 2026, OAH issued an Order Following Prehearing Conference.

On July 31, 2026, Student filed a document entitled "Notice of Voluntary Dismissal Without Prejudice." The notice did not seek any relief but alleged that Student had the absolute right to dismiss his complaint without prejudice at any time during the proceedings and that Student had done so. OAH treated the filing as a motion to dismiss the matter without prejudice, and denied it on August 3, 2026, on the same ground as it denied the July 1, 2026, motion, that a mid-hearing request to dismiss could only be granted with prejudice. On August 3, 2026, Student sent an email to OAH and Corona-Norco again announcing that he had exercised his purported right to dismiss the matter without prejudice.

On August 4, 2026, the second part of the bifurcated hearing was convened. When it was clear that there would be no appearance for Student, Corona-Norco declined to present further evidence, and declined to file a closing argument. Instead,

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Corona-Norco moved to dismiss the complaint with prejudice on the ground that Student had failed to prosecute it and failed to discharge his burden of proof. The ALJ took the motion under consideration. The ALJ then took the non-expedited issues under submission, adjourned the non-expedited part of the hearing, and vacated the remaining hearing days.

At 10:27 PM on August 4, 2026, after the non-expedited hearing had been adjourned, Student filed a motion to continue the non-expedited hearing until September. Student stated in the motion that he needed time to retain counsel and prepare for hearing. OAH denied the motion to continue on August 17, 2026, as untimely and as moot.

Corona-Norco's motion on August 4, 2026, to dismiss the complaint with prejudice for failure to prosecute is now denied. Since the hearing was already in progress when Corona-Norco's motion was made, and since there was enough evidence admitted at the expedited portion of the hearing to decide the non-expedited issues fairly, the non-expedited issues will be decided. The parties are entitled to resolution of all issues in this matter.

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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 (2006); 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]; see also 20 U.S.C. § 1415(i)(2)(C)(iii).) Student filed the complaint in this matter and bears

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).) All of the factual findings below are based on evidence admitted at the expedited portion of the hearing on June 16, 17, and 18, 2026.

Student was 14 years old and was finishing eighth grade at Corona-Norco's Raney Intermediate School at the time of the hearing. Student resided within Corona-Norco's geographic boundaries at all relevant times. Student was eligible for special education under the category of Other Health Impairment because of suspected Attention Deficit Hyperactivity Disorder, called ADHD.

ISSUE 1:A: DID CORONA-NORCO DENY STUDENT A FAPE IN THE 2025-2026 SCHOOL YEAR BY FAILING TO OFFER A LEGALLY SUFFICIENT IEP THAT ADEQUATELY ADDRESSED HIS KNOWN BEHAVIOR DEFICITS?

Student first enrolled in a Corona-Norco school as a fifth grader in the Cesar Chavez Academy. He also completed sixth grade at Cesar Chavez, but transferred for seventh grade to Raney Intermediate School. At some time in his seventh grade year, Student's Parent requested that Corona-Norco assess Student for eligibility for special education. In March 2025, school psychologist Natalie Candela conducted a psychoeducational assessment of Student, in which she reviewed his educational history, administered several standardized tests, and interviewed teachers, Parent and Student. Candela concluded that Student met the criteria for eligibility for special education in the category of Other Health Impairment because of his attention deficit hyperactivity disorder, or ADHD.

Corona-Norco held Student's first IEP team meeting on April 8, 2025, and found him eligible for special education in the category of other health impairment. The team created a program for Student, Mother consented to it, and the April 8, 2025 IEP governed Student's education for the last weeks of seventh grade. That IEP continued to govern in Student's eighth grade until April 2026, when it was replaced by another annual IEP to which Parent consented.

Student alleged in his complaint that Corona-Norco denied him a FAPE by failing adequately to address his behavioral needs in the April 2025 and April 2026 IEP's. Corona-Norco argued in an earlier pleading that the IEP's it offered Student were properly tailored to his unique needs, placed him in the least restrictive environment, and were reasonably calculated to enable him make appropriate progress in light of his unique circumstances.

A FAPE means special education and related services that are available to an eligible child and 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(2006)). Parents and school personnel develop an individualized education program 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 (2007), 300.321 (2007) , and 300.501 (2006).)

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 [73 L.Ed.2d 690, 102 S.Ct. 3034]; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [197 L.Ed.2d 335; 137 S.Ct. 988].)

In the case of a child whose behavior impedes his or her learning or that of others, the IEP team must consider the use of positive behavioral interventions, supports and strategies. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i)(2017); Ed. Code, § 56341.1, subd. (b)(1).) The federal regulations implementing the IDEA require the IEP team to consider the use of positive behavior interventions, supports and other strategies, but they do not specify the interventions, supports or strategies that must be considered. (71 Fed. Reg. 46683 (Aug. 14, 2006).) The team may address the behavior through annual goals (34 C.F.R. § 300.320(a)(2)(i)(2007), and may include modifications, support for identifying a student's problem behavior, the identification of the contextual factors that contribute to the behavior, and the formulation of an hypothesis regarding the general conditions under which negative behavior usually occurs and probable consequences that serve to maintain it.

Student challenges the adequacy of his IEP's only for the 2025-2026 school year. During most of that school year, Student's program was governed by an IEP offered at an IEP team meeting on April 8, 2025, and later consented to by Mother.

Student's behavior deficits were well known. In recent school years he had engaged in many minor misbehaviors showing defiance, such as talking back to adults, and refusing to work, to follow instructions, to take his hat off, to stop chewing gum, to stop watching YouTube in class, to complete assignments, to sit in the chair assigned to him, to stop talking, and the like. Student also displayed other common misbehaviors such as losing focus on an assignment, failure to listen, and failure to concentrate on

schoolwork. These instances of attention lapses and teenage defiance were frequent, but they were never so serious as to provoke a suspension or any other kind of official action. The parties agreed these repeated behaviors were irritating and annoying, but they did not interfere with the education of other students and, until May 4, 2026, never involved violence.

At the April 8, 2025 IEP team meeting, Student's behavioral needs were discussed. Parent expressed concern for his focus, and also his tendency to do what he wanted to do, notwithstanding adult direction. Those concerns were addressed at length in the IEP document's statement of his present levels of performance, which identified behavior as an area that needed to be addressed.

The April 2025 IEP document contained two annual goals arising out of that discussion that were directed at Student's behavior. Goal number four addressed Student's need to respond appropriately to adult direction, and not to require several prompts to begin a task. Goal number five addressed increasing on-task behavior. It required Student to initiate an assigned task with no more than two prompts 80 percent of the time.

The IEP team met again on April 7, 2026 to draft a new annual IEP. The team considered progress reports on Student's previous behavior goals. Goal number four in the April 2025 IEP encouraged Student to respond appropriately when instructed to do something by an adult. A year later, the IEP team learned that Student had fully met that goal. Goal number five in the April 2025 IEP addressed Student's lack of consistent attention to the work in class, and required improvements in his concentration on the work of the class. A year later, the IEP team learned that Student had partially met that goal.

According to the April 2026 IEP team meeting notes, Student had made substantial progress in regulating his behavior between April 2025 and April 2026. Parent told the team that she was proud of Student's progress so far, and Parent also agreed that the progress reports on Student's April 2025 behavior goals were accurate.

Student still had substantial behavioral needs. The April 2026 IEP document and witness testimony in the expedited portion of the hearing established that Student's behavior impeded his learning. By April 2026, Student still struggled with following directions, receiving direction, and maintaining positive interactions with adults and peers. He tended to do the opposite of whatever had been asked of him. He could quietly defy an instruction or engage in blatant and outspoken defiance.

The April 7, 2026 IEP proposed two new behavioral goals to address these remaining challenges. Goal number four addressed work completion and sought to encourage Student to turn in more assignments by writing the assignments down on a list and then keeping track of them using the list. Goal number five was designed to increase on-task behavior, and was revised to reflect Student's progress on his previous on-task behavior goal. Parent consented to the new IEP.

On May 4, 2026, about a month after the April 2026 IEP team meeting, Student took part in the incident that led to his suspension. The incident is described in OAH's previous Decision on the expedited issues and will not be repeated here.

On May 13, 2026, Corona-Norco held Student's manifestation determination review, or MDR. Student's behavior was the primary focus of discussion because the MDR team was trying to determine whether there was anything in Student's past that might have foreshadowed his assault on another Student. The Corona-Norco members of the MDR team decided there was nothing in Student's past that would have alerted

them to the possibility that Student's ADHD would lead to a violent assault. Parent and her partner disagreed, but did not claim that any similar incidents had occurred. Parent and her partner did inform the team that Student had been repeatedly bullied, had been attacked by peers in the bathroom, and was nearly assaulted by another peer in a local park. None of these incidents showed Student initiating or participating in any physical aggression.

In the course of the MDR team's review of Student's disciplinary record, it became clear that Student's May 4, 2026 behavior was not typical of him and had not occurred before. The Corona-Norco members of the team and Parent repeatedly agreed that before the incident, Student had been making good progress in controlling his behavior and in academics as well.

In short, Student's IEP team extensively considered his behavioral needs and appropriately addressed them in the April 2025 and April 2026 IEP's. The team again considered his behavior at the MDR. Up to May 4, 2026, according to all involved, Student significantly improved in the regulation of his behavior.

Corona-Norco did not deny Student a FAPE by failing adequately to address Student's behavior in his IEP's.

ISSUE 1:B: DID CORONA-NORCO DENY STUDENT A FAPE IN THE 2025-2026 SCHOOL YEAR BY FAILING TO CONDUCT A FUNCTIONAL BEHAVIOR ASSESSMENT?

A functional behavior assessment is a set of procedures used by behaviorally trained assessors to observe the subject's undesirable behaviors, identify and describe the antecedents, or triggers, of the those behaviors, identify the contextual factors that

contribute to the behaviors, and formulate a hypothesis regarding the general conditions under which the behaviors usually occur and the probable consequences that serve to maintain them.

At the expedited hearing, Student contended that his misconduct on May 4, 2026, was due to the absence of an FBA and a behavior intervention plan in his IEP's. Corona-Norco contended that it had no reason before May 4, 2026, to conduct an FBA. Although the evidence admitted at the expedited hearing was intended for use in informing the MDR, it also applies to these non-expedited issues and provides insight into the question here, whether Corona-Norco knew or should have known, before May 4, 2026, that it needed to conduct an FBA for Student in order to provide him a FAPE.

In this case, as shown above, Student's IEP's directly addressed his behavioral needs, offered behavior goals to support those needs, and resulted in substantial behavioral progress recognized by both parties. Those IEP's adequately addressed Student's behavioral needs, so no FBA was required. The evidence at the expedited hearing did not support the claim that Corona-Norco denied Student a FAPE by failing to conduct an FBA.

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ISSUE 1:C: DID CORONA-NORCO DENY STUDENT A FAPE IN THE 2025-2026 SCHOOL YEAR BY FAILING TO OFFER HIM A BEHAVIOR INTERVENTION PLAN?

For the reasons set forth above, Corona-Norco adequately addressed Student's behavioral needs and therefore was not required to create a formal behavior intervention plan in order to provide him a FAPE.

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: CORONA-NORCO ADEQUATELY ADDRESSED STUDENT'S BEHAVIORAL DIFFICULTIES IN ITS IEP'S OF APRIL 8, 2025 AND APRIL 7, 2026.

Corona-Norco prevailed on Issue 1.

ISSUE 2: CORONA-NORCO DID NOT NEED TO CONDUCT A FUNCTIONAL BEHAVIOR ASSESSMENT TO PROVIDE STUDENT A FAPE.

Corona-Norco prevailed on Issue 2.

ISSUE 3: CORONA-NORCO DID NOT NEED TO OFFER STUDENT A
BEHAVIOR INTERVENTION PLAN IN ORDER TO PROVIDE HIM A FAPE

Corona-Norco prevailed on Issue 3.

ORDER

All Student's requests for relief based on the non-expedited issues are denied.

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.

Charles Marson

Administrative Law Judge

Office of Administrative Hearings