

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENT ON BEHALF OF STUDENT,

v.

SIMI VALLEY UNIFIED SCHOOL DISTRICT.

CASE NO. 2026010936

EXPEDITED DECISION

APRIL 6, 2026

On January 27, 2026, the Office of Administrative Hearings, called OAH, received a due process hearing request from Student, called a complaint, naming Simi Valley Unified School District. Simi Valley Unified School District is called Simi Valley or District. OAH initially determined the complaint contained expedited and non-expedited hearing claims. OAH set the expedited and non-expedited matters for separate hearings. The hearing on the expedited claims proceeded to hearing as originally scheduled on February 24, 2026. This Decision addresses only the expedited claims.

Administrative Law Judge Laurie Gorsline heard this matter by videoconference on February 24, 25 and 26, and March 17, 2026. The Administrative Law Judge is called ALJ.

Grandfather, to whom Mother assigned her educational rights, represented Student. Mother also attended the first day of hearing on Student's behalf. Student did not attend the hearing. Attorneys Sheryl Bailey and Caroline Rothans represented Simi Valley. Simi Valley administrator Jodi Loomis attended all hearing days on District's behalf.

On March 17, 2026, the last day of the expedited hearing, the record was closed, and the matter was submitted for decision. The ALJ allowed the parties to file closing arguments by March 20, 2026. Both parties filed written closing arguments on March 20, 2026. The dates of March 30 through and including April 3, 2026, were not school days because District was closed for spring break.

EXPEDITED ISSUES

On February 13, 2026, Administrative Law Judge Cynthia Fritz held an expedited prehearing conference, and determined which issues were expedited claims. OAH issued an Order Following Expedited Prehearing Conference dated February 13, 2026, setting forth the issues to be determined during the expedited hearing. The parties were ordered to file written notice before the first day of the expedited hearing if a party believed that an issue had been misstated. Neither party filed a written notice nor otherwise objected to the list of expedited issues listed in the Order.

At the due process hearing, Student withdrew Issue 2B listed in the Order Following Prehearing Conference. Nonetheless, Student's closing brief addresses Issue 2B. Having withdrawn Issue 2B during the hearing, Student cannot resurrect it in his closing brief. Student's Issue 2B was dismissed by written order on April 2, 2026. Accordingly, Issue 2B is not substantively addressed in this Decision.

For clarity, the remaining issues for hearing have not been renumbered, but are listed with the same numbers and letters as set forth in the Order Following Prehearing Conference, except upper case letters have been used to refer to the sub-issues. The Individuals with Disabilities Education Act is called the IDEA.

1. Did Simi Valley have a basis of knowledge that Student was a child with a disability entitling Student to the protections of the IDEA with regard the discipline imposed by Simi Valley in January 2026?
2. Did Simi Valley conduct a legally noncompliant manifestation determination meeting on January 22, 2026 by:
 - A. Failing to have relevant members of the team present, specifically, a school psychologist or qualified clinician to interpret evaluation data?
 - C. Failing to review relevant information provided by Parent?
 - D. Predetermining the manifestation determination decision?

JURISDICTION

This expedited hearing was held under the IDEA, 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 IDEA are to ensure:

- all children with disabilities have available to them a free appropriate public education, or FAPE, 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).)

Title 20 United States Code section 1415(k) and 34 Code of Federal Regulations, part 300.530, et seq. (2006), govern the discipline of special education students. (Ed. Code, § 48915.5.) A student receiving special education services may be suspended or expelled from school as provided by federal law. (20 U.S.C. § 1412(a)(1)(A); Ed. Code, § 48915.5, subd. (a).) If a special education student violates a code of student conduct, school personnel may remove the student from their educational placement without providing services for a period not to exceed 10 school days per school year, provided typical children are not provided services during disciplinary removal. (20 U.S.C. § 1415(k)(1)(B); 34 C.F.R. § 300.530(b)(1) & (d)(3).)

A parent of a special education student may appeal a school district's determination that particular conduct resulting in a disciplinary change of placement was not a manifestation of the child's disability by requesting an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. 300.532(a) & (c).) The expedited hearing must begin within 20 school days of the date an expedited due process hearing request is filed, and a decision must be rendered within 10 school days after the expedited hearing ends. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. 300.532(c)(2).) The rules for an expedited due process hearing under title 20 United States Code section 1415(k), must be consistent with those for other IDEA hearings. (34 C.F.R. § 300.532(c)(1).)

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).) Here, Student filed the complaint and had the burden of proof.

The factual statements in this Expedited 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).) This Decision does not cite to the administrative record because it was not available before the issuance of this Decision and OAH policy is that decisions do not include citations to the record. Pursuant to the applicable web content accessibility guidelines, OAH Decisions are written in an accessible font and format.

Student was 13 years old and in seventh grade at the time of the hearing. Student resided within District's geographic boundaries at all relevant times and was attending a District middle school during the 2025-2026 school year. Grandfather has resided in the same residence as Student since Student was born.

At the time of the hearing, Student had not been determined to be eligible for special education. As a result of an incident on January 9, 2026, Student was suspended from school for more than 10 school days and expelled from school the week before the hearing began.

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ISSUE 1: DID DISTRICT HAVE A BASIS OF KNOWLEDGE THAT STUDENT WAS A CHILD WITH A DISABILITY ENTITLING STUDENT TO THE PROTECTIONS OF THE IDEA WITH REGARD TO THE DISCIPLINE IMPOSED BY DISTRICT IN JANUARY 2026?

Student contends that District was required to conduct an IDEA manifestation determination after the January 9, 2026 disciplinary incident which resulted in Student receiving a disciplinary change of placement for more than 10 school days. Student argues that even though Student had not yet been found eligible for special education, he was entitled to IDEA protections regarding disciplinary removals under the “basis of knowledge” provision of Title 20 United States Code section 1415(k)(5). Student argues that because Mother requested a special education evaluation in November 2025, District was deemed to have a basis of knowledge that Student had a disability for all disciplinary purposes regarding the January 9, 2026 incident. Student argues that Grandfather’s January 12, 2026 withdrawal of consent to the December 1, 2025 assessment plan did not negate District’s basis of knowledge, in that District directed Grandfather to revoke consent to the ongoing assessment to include a functional behavior assessment. Student argues that under the doctrine of equitable estoppel, District cannot induce Grandfather to withdraw consent for the assessment and then try to benefit from it.

District contends that on January 9, 2026, Student was suspended for five days pending expulsion for violating Education Code section 48915, subdivision (c) by purchasing a THC wax pen, smoking it on campus, and selling it to another student. On the first day of hearing, District conceded that it never conducted an IDEA-compliant manifestation determination because Student was not entitled to IDEA protections but

argued it did conduct a manifestation determination pursuant to Section 504 of the Rehabilitation Act of 1973. In its closing brief, District argues Student was not entitled to the protections of the IDEA because Grandfather revoked consent to the pending special education evaluation, triggering application of the “basis of knowledge” exception under Title 20 United States Code section 1415(k)(5)(C). District argues that three days after the January 9, 2026 disciplinary incident, Grandfather, as Student’s designated educational representative, revoked consent for the special education assessment Mother had requested in November 2025. District argues Grandfather’s January 12, 2026 revocation, preventing it from proceeding with the special education assessment of Student, meant District was not required to conduct an IDEA manifestation determination. District argues that this revocation exception to the “basis of knowledge” provision of the IDEA is not limited to a parent’s revocation which occurs before the disciplinary incident because Title 20 United States Code section 1415(k)(5)(C) contains no such limitation, as contrasted with sections (A) and (B) which do contain this limiting language. District argues that once consent was revoked on January 12, 2026, the statutory exception applied, and Student was not entitled to the protections of the IDEA pursuant to a basis of knowledge.

District contends Grandfather’s argument is unavailing that he revoked consent to the assessment based on District’s direction. District asserts that Grandfather withheld consent even before he got feedback from District, so he could meet with Student’s outside medical providers and so District could prepare a new assessment plan which contained a functional behavior assessment and any other measures recommended by Student’s outside clinical team. Thus, District contends that even

before Grandfather formally revoked consent to the December 1, 2025 assessment plan, he made it clear that he had no intention of allowing District to proceed with its evaluation unless and until it was signed off by Student's outside providers.

Under federal and state special education law, students found eligible for special education are afforded certain rights in disciplinary matters. Those rights include, in certain circumstances, the right to a determination of whether the student's misconduct that led to a disciplinary change of placement was caused by or had a direct and substantial relationship to the student's disability, or if the conduct was the direct result of the school district's failure to implement the student's individualized education program, or IEP. (20 U.S.C. § 1415(k)(1)(E)(i)(I) &(II); 34 C.F.R. § 300.530(e)(i) & (ii).) A disciplinary change of placement entitling a student to a manifestation determination occurs if the removal is for more than 10 consecutive school days or because the series of removals total more than 10 school days in a school year. (34 C.F.R. § 300.536(a).) For disciplinary changes in placement greater than 10 consecutive school days, the disciplinary measures applicable to students without disabilities may only be applied to a special education student if the conduct resulting in discipline is determined not to have been a manifestation of the special education student's disability. (20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c).)

For a student who has not yet been determined eligible for special education, the right to a manifestation determination applies only if the student engaged in behavior that violated code of student conduct and the local educational agency had knowledge

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that the student had a disability before the behavior prompting the disciplinary action occurred. (20 U.S.C. § 1415(k)(5)(A); 34 C.F.R. § 300.534(a).) This is referred to as a “basis of knowledge” which is defined in Title 20 United States Code section 1415(k)(5)(B) and its implementing regulation, 34 Code of Federal Regulations part 300.534(b.) The local educational agency must be deemed to have a basis of knowledge that a student is a child with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
- The parent of the child has requested an evaluation of the child for special education; or
- The teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

(20 U.S.C. § 1415(k)(5)(B); 34 C.F.R. § 300.534(b).)

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However, there are statutory exceptions to the entitlement premised upon a local educational agency's "basis of knowledge." The local educational agency shall not be deemed to have knowledge that the student is a child with a disability if:

- The parent of the child has not allowed an evaluation of the child for special education; or
- The parent of the child has refused special education and related services; or
- The child has been evaluated and it was determined that the child was not a child with a disability under the IDEA.

(20 U.S.C. § 1415(k)(5)(C); 34 C.F.R. § 300.534(c).)

STUDENT HAD A SECTION 504 PLAN

At all relevant times to the Issues adjudicated in this Decision, Student was eligible for a Section 504 Plan, based on a diagnosis of attention deficit hyperactivity disorder, called ADHD. On Student's Section 504 Eligibility Summary, District listed his specific mental or physical impairment as "ADHD," impacting the following major life activities to a substantial degree: social/behavioral and concentrating.

A "504 plan" is developed by a school district pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability. (*A.J.T. v. Osseo Area Schools, Independent School Dist. No. 279* (2025) 605 U.S. 335, 339 [145 S.Ct 1647, 222 L.Ed.2d 1]; *Falmouth School Department v. Doe* (D.Me. Sept. 29, 2021, No. 2:20 cv—00214-GZS) 2021 WL 4476939, at *fn. 20 [nonpub. opn].) These plans provide accommodations that allow a disabled student to participate in

public school and access general education. (*Id.*) Schools formulate Section 504 Plans to aide the student's access to the general education curriculum. (*McIntyre v. Eugene School District 4J* (9th Cir. 2020) 976 F.3d 902, 911 (*McIntyre*), citing *Durbrow v. Cobb City School Dist.* (11th Cir. 2018) 887 F.3d 1182, 1186, fn. 1.) Section 504 meetings are held to periodically review a student's 504 plan. (*Blunt v. Lower Merion School Dist.* (E.D.Penn. 2009) 262 F.R.D 481, fn. 4.)

While the IDEA focuses on the provision of appropriate education to children with disabilities, the Rehabilitation Act more broadly addresses the provision of state services to individuals with disabilities. (*McIntyre, supra*, 976 F.3d at p. 911, citing *Mark H. v. Lemahieu* (9th Cir. 2008) 513 F.3d 922, 929.) Section 504's regulations gauge the adequacy of services provided to individuals with disabilities by comparing them to the level of services provided to individuals who are not disabled. (*McIntyre, supra*, 976 F.3d at p. 911.) Any child who is entitled to an IEP under the IDEA is also protected by Section 504, but the inverse is not true. (*Doucette v. Georgetown Public Schools* (1st Cir. 2019) 936 F.3d 16, fn.12.)

THE NOVEMBER 19, 2025 SECTION 504 TEAM MEETING

On November 19, 2025, District convened a section 504 amendment team meeting for Student. The purpose of the meeting was to review Student's Section 504 Plan and to conduct a manifestation determination regarding the relationship between Student's disability and the behavior subject to disciplinary action, specifically, Student's use of profanity resulting in a proposed disciplinary action of a suspension beyond 10 cumulative days in a school year. Mother and Grandfather attended the meeting, along with District 504 Coordinator Gabriela Jasso, Assistant Principal James Ramirez, general education English teacher Melissa Birch, and Assistant Director of Student Support

Services Kendall Forrester who facilitated the meeting. The Section 504 team determined that Student's behavior was caused by or had direct or substantial relationship to Student's disability, and not the result of District's failure to implement his Section 504 Plan.

During the meeting, Parent indicated she was taking steps to get Student assessed, including an appointment to get Student privately assessed. The notes reflect that Assistant Director Forrester recommended that Student be assessed for eligibility for special education and related services, and that one of the school psychologists would send an assessment plan to Parent. However, at hearing Forrester claimed that Mother requested a new special education assessment during the November 19, 2025 Section 504 meeting. Following the meeting, Forrester told the school psychologist Bianca Tavera to develop and initiate a new special education assessment for Student. Although Student was previously assessed for special education by District at some point and not found eligible, the weight of evidence established that the prior special education assessment of Student was not recent, and the information was likely stale. Forrester could not recall what year the assessment occurred but admitted it had been "some time" since Student had been assessed for special education. She admitted it had been at least more than one year since Student had been assessed and granted the assessment to obtain more current data.

THE DECEMBER 1, 2025 ASSESSMENT PLAN

On November 20, 2025, Mother provided a writing to District, which designated Grandfather to represent her in all educationally related matters regarding Student. District subsequently provided Parent with an assessment plan for Grandfather's

signature dated December 1, 2025, proposing to conduct an initial assessment of Student to determine his eligibility for special education and related services. The December 1, 2025 plan included proposed assessments in the areas of

- academics,
- social/emotional behavior,
- self/help adaptive skills,
- intellectual development, and
- health.

All the proposed areas of assessments were to be conducted by a psychologist other than the academic achievement, which was to be done by a special education teacher, and the health assessment, which failed to identify who would be conducting it. Grandfather signed the assessment plan on December 1, 2025, consenting to the assessments.

THE DECEMBER 3, 2025 INCIDENT

On December 3, 2026, Assistant Principal Brian Kiunke wrote a letter to Mother stating that Student had been suspended for five days after Student was involved in two mutual combat situations. The letter stated this made a total of 15 days that Student was suspended during the school year.

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THE JANUARY 9, 2026 INCIDENT

On January 9, 2026, Assistant Principal Ramirez wrote a letter to Mother stating that Student had purchased a "THC wax pen" from another student, that Student had admitted to smoking it on campus, and selling it to another peer during class. The letter stated that Student was being suspended for five days with a recommendation for expulsion for violating Education Code section 48900, subdivision (c), which it listed as "Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of a controlled substance, alcoholic beverage, or an intoxicant of any kind." The letter stated that that this five-day suspension brought the number of days Student had been suspended during the 2025-2026 school year to a total of 20 days. Student was instructed to remain at home during this suspension, which the letter stated would begin on January 12, 2026.

THE REQUEST FOR A FUNCTIONAL BEHAVIOR ASSESSMENT

On Monday, January 12, 2026, school psychologist Tavera requested, from Grandfather, proposed meeting dates to test Student pursuant to the December 1, 2025 assessment plan. Tavera proposed three days that same week to test Student. The same day, Grandfather stated in an email to Tavera that the proposed dates would not work. Grandfather also stated that the testing could not proceed until he received and signed a formal assessment plan and he met with Student's outside behavioral health team on January 15, 2026, to ensure District's proposed evaluation was sufficiently comprehensive. Grandfather stated that once he reviewed the formal assessment plan and consulted with Student's outside clinical team, he would provide his availability for the following week.

On January 12, 2026, school psychologist Tavera informed Grandfather that he signed the assessment plan on December 1, 2025, and attached a copy to her email sent to Grandfather. Grandfather responded that same afternoon, stating he was modifying/withholding consent for assessment under that specific plan because it was developed prior to the current disciplinary crisis and did not include a functional behavior assessment.

He stated that an evaluation that did not include a functional behavior assessment was inadequate, and that testing could not proceed until two things occurred. First, he needed to meet with Student's outside clinical team on January 15, 2026, to determine the necessary scope of evaluation required to adequately capture Student's ADHD/impulsivity profile. Second, District needed to provide a new assessment plan that included a functional behavior assessment and any other measures recommended by the outside clinical team. Grandfather stated that Student would not be available for testing sessions until a comprehensive and mutually agreed upon assessment plan was signed.

In response to that email, District Program Specialist Saraswathi Nambi told Grandfather in an email on January 12, 2026, that District could not withhold the assessment process or pause the assessment timeline. Nambi stated that District was required to conduct the assessments as listed in the assessment plan dated December 1, 2025. Nambi also informed Grandfather that as Student's parent/legal guardian, he had the right to withdraw his consent to December 1, 2025 assessment plan and send District a new request when he was ready to have Student assessed after consulting with Student's outside providers. Nambi asked Grandfather to let District know how he would like to proceed.

On January 12, 2026, Grandfather emailed Nambi. He stated that pursuant to his prior email and her response to his email, he was formally withdrawing and revoking consent to the December 1, 2025 assessment plan and that he would provide a new assessment request after meeting with Student's outside clinical team on January 15, 2026.

Grandfather testified that District personnel instructed him to have Mother send a similar letter. This testimony was credible because it was unrebutted. Based on District's instruction, the same evening, Mother sent Nambi an email joining in Grandfather's withdrawal and revocation of consent to the December 1, 2025 assessment plan.

By email on January 13, 2026, program specialist Nambi acknowledged Grandfather's and Mother's emails withdrawing consent for special education assessment and included an acknowledgment letter and a copy of parents' rights and procedural safeguards. The January 13, 2026 acknowledgement letter stated that District had received their withdrawal and revocation of consent to assessment and that if they wanted District to consider Student for special education and related services in the future, they could contact Student's middle school or District to request an evaluation which request would be responded to within 15 days.

On January 13, 2026, Grandfather sent an email to Nambi requesting that the revocation of consent for the initial special education evaluation be noted in Student's permanent file.

At hearing, Grandfather testified Parent never refused to allow Student to be assessed but instead asked that the evaluation be modified to include a functional behavior assessment because of the January 9, 2026 incident. He understood Nambi's email to say that the only way to add a functional behavior assessment to the existing

assessment was to revoke consent to the December 1, 2025 assessment plan and ask for a new special education assessment, so that was what Grandfather and Parent did. He understood Nambi to say that District could not modify the ongoing assessment to add a functional behavior assessment. Grandfather stated it was always his intention to enhance the evaluation after the January 9, 2026 incident which was why he specifically asked for a functional behavior assessment. Grandfather simply followed District's directions regarding its process and never refused to allow District to assess Student. Grandfather reasonably relied on District personnel's representations regarding District's stated procedure to add a functional behavior assessment when he revoked consent for the assessment pursuant to District's direction.

THE EXTENSION OF STUDENT'S SUSPENSION

On January 14, 2026, Assistant Principal Ramirez called Grandfather and left a voicemail, informing him that Student's suspension was being extended until January 22, 2026, and that a "Manifestation 504 meeting" would be held at that time.

A Section 504 amendment meeting was already scheduled for January 22, 2026, to discuss amending Student's Section 504 Plan. After the January 9, 2026 incident, District decided to convert the January 22, 2026 Section 504 amendment meeting into a manifestation determination under Section 504 as well.

DISTRICT HAD A BASIS OF KNOWLEDGE REQUIRING IT TO CONDUCT A MANIFESTATION DETERMINATION UNDER THE IDEA

The weight of evidence established that Student was subjected to a disciplinary change of placement of more than 10 school days based on a violation of District's code of conduct involving a THX wax pen, or vape pen. According to Assistant Principal

Ramirez's email, by January 9, 2026, Student had already been suspended for a total of 15 school days during the 2025-2026 school year. As a result of the January 9, 2026 incident, Student was suspended for more than 10 school days, from January 12 through his expulsion the week before the hearing began on February 24, 2026.

Although Student had not been determined to be eligible for special education at the time of the January 9, 2026 suspension, he was entitled to the protections of Title 20 United States Code section 1415(k) based on District's "basis of knowledge" that he was a Student with a disability. That District knew Student was a child with a disability at the time of the conduct which precipitated the January 9, 2026 suspension within the meaning of Title 20 United States Code section 1415(k)(5)(A) and (B)(ii) was established by the following: Assistant Director Forrester admitted at hearing and District concedes that at the November 19, 2025 Section 504 meeting Mother requested that Student be assessed for special education. In addition, on December 1, 2025, Grandfather signed the December 1, 2025 assessment plan on Mother's behalf, and the assessment was in progress. In short, because Mother and Grandfather requested that Student be assessed for special education before the conduct outlined in the January 9, 2026 letter which lead to Student's suspension and later expulsion, District had a basis of knowledge for purposes of obtaining the IDEA's protections regarding disciplinary removals. (20 U.S.C. § 1415(k)(A) and (B)(ii); 34 C.F.R. § 300.534(a) and (b)(2).)

Grandfather's authority to sign the December 1, 2025 assessment plan has not been challenged by District. Nor would such a defense have merit. In its closing argument, District concedes that Grandfather was Student's designated educational representative. In fact, District prepared the December 1, 2025 assessment plan for Grandfather's signature, not Mother's. District also acted upon Grandfather's authority regarding the assessment. According to Assistant Director Forrester, District's

evaluation of Student was in progress in January 2026 in that several assessors had started the assessment, although Forrester was unsure where each assessor was in the process.

Moreover, District never advised Mother or Grandfather that it required Mother's signature for the assessment or that it was refusing to assess Student based on the lack of proper authority to consent. In fact, in one of her January 12, 2026 emails to Grandfather, District Program Specialist Nambi reiterated Grandfather's authority regarding the assessment as Student's "parent/legal guardian." When a verbal request for assessment is made, school district staff shall offer assistance to the individual in making a request in writing and shall assist the individual if the individual requests such assistance. (Cal. Code Regs, tit. 5, § 3021, subd. (a).) Moreover, parents must be notified in writing when a school district refuses to evaluate a child, as requested by parents, and provide an explanation for the basis of the refusal. (34 C.F.R. § 300.503(a)(2) & (b).) District never gave Student such notice.

THE BASIS OF KNOWLEDGE EXCEPTION DID NOT APPLY

District's reliance on the exception to "basis of knowledge" based on Grandfather's or Mother's January 12, 2026 revocation of consent to the December 1, 2025 assessment plan is unpersuasive. Whether a local educational agency is deemed to have a basis of knowledge for purposes of applying the IDEA's protections regarding disciplinary removals is determined by looking at what it knew "before the behavior that precipitated the disciplinary action." (20 U.S.C. § 1415(k)(5)(A) and (B).) The fact that the exception to basis of knowledge codified in subsection (C) does not contain the same temporal language as in subsections (A) and (B) does not change the timeframe in which the basis of knowledge is determined. District cites no persuasive authority holding that

the exception to basis of knowledge should not be read together with the rest of the statute requiring basis of knowledge to be determined by looking at what District knew before the January 2026 behavior occurred.

Regardless, the evidence otherwise established the IDEA exception to “basis of knowledge” did not apply. Student proved neither Grandfather, nor Mother, were refusing to allow District to conduct its evaluation but were instead attempting to ensure Student was comprehensively assessed. When considered in totality, in the January 12, 2026 correspondence with District personnel, Grandfather was attempting to add a functional behavior assessment to District’s ongoing assessments and postpone the proposed testing until at least the following week, after he met with Student’s outside clinical team on January 15, 2026.

In his email to school psychologist Tavera, Grandfather stated he would provide his availability for testing for the week following his January 15, 2026 meeting with the outside clinical team. Grandfather also stated in his next email to Tavera that he wanted a new assessment plan that included a functional behavior assessment because of the current disciplinary crisis given the January 9, 2026 suspension letter. To ensure that District’s assessment was sufficiently broad, Grandfather stated he was “modifying/withholding” consent for assessment until he met with the outside clinical team on January 15, 2026, and obtained a new assessment plan that included a functional behavior assessment and any other measures the outside team recommended. Considered as a whole, Grandfather’s conduct was not a refusal to allow District to assess, but rather an attempt to expand the ongoing District assessment to ensure it was comprehensive and considered Student’s conduct that was the subject of the January 9, 2026 suspension letter.

Program Specialist Nambi provided District's response to Grandfather's request. Nambi's response was insufficient, incomplete and misleading. Nambi never advised Grandfather that District could send out a new assessment plan requesting consent for just the functional behavior assessment to supplement the ongoing District evaluation. Nor did Nambi offer as an option to schedule the requested testing dates for the following week, as Grandfather had implicitly proposed. Instead, Nambi's email only gave Grandfather one option – to withdraw his consent to the December 1, 2025 assessment plan and have Grandfather send a new request for assessment after Grandfather met with Student's outside clinical team. Because of Nambi's statements, Grandfather reasonably believed the only way that a functional behavior assessment could be added and the tests postponed until after his meeting with the outside providers, was to revoke consent for assessment.

Accordingly, based on Nambi's wholly misleading response in her January 12, 2026 email, Grandfather did as Nambi directed and revoked his consent to December 1, 2025 assessment plan, and had Mother do the same pursuant to District's instruction. District's conduct in this case, inducing Grandfather to revoke consent to the assessment when he was actually trying to ensure that Student was comprehensively assessed, mandates against any application of Section 1415(k)'s exception to the basis of knowledge.

Grandfather's and Mother's desire to have Student assessed was corroborated by the notes of the January 22, 2026 meeting, which is discussed in Issue 2A below. At that meeting, Mother asked what happened with the special education assessment she had requested. Assistant Director Forrester told her that Grandfather had requested

the assessment be paused, which was not permissible under the law, and then he revoked his consent on her behalf after Mother made him her designated educational representative following the November 19, 2025 Section 504 meeting.

Grandfather explained he only revoked consent for assessment because the functional behavior assessment was not included and Mother again requested Student be assessed for special education. At that time, Mother also inquired about whether the disciplinary removal could be paused until after the assessment. Forrester informed Mother the January 22, 2026 manifestation determination meeting would proceed and that the expulsion could be paused if District agreed to grant a special education assessment, but that District had 15 days to consider Mother's new request for assessment.

On January 28, 2026, District sent a new assessment plan to Mother which included all the same assessments as were included in the December 1, 2025 assessment plan, in addition to a functional behavior assessment. However, this assessment plan stated that the health assessment would be done by the school psychologist who would merely review Student's background and developmental history and health.

Grandfather signed the January 28, 2026 assessment plan on Mother's behalf on February 13, 2026, having been designated Parent's educational representative on November 20, 2025. Because Grandfather forgot to mark the box stating that he was consenting to the assessment plan, he sent an email on February 19, 2026, stating that he was consenting to the assessment plan. Grandfather did not immediately sign the new assessment plan because he and Mother were going through the resolution

process in this case, and he forgot about the form. On these facts, the evidence did not establish that Grandfather and Mother refused to allow District to assess Student within the meaning of Title 20 United States Code section 1415(k)(5)(C).

Student proved District had a “basis of knowledge” that he was a student with a disability before the behavior described in the January 9, 2026 suspension letter which prompted District to suspend Student and later expel him. Student proved that the “basis of knowledge” exception in Title 20 United States Code section 1415(k)(5)(C) did not apply. District had a basis of knowledge that Student was a child with a disability entitling Student to the protections of the IDEA with regard to the discipline imposed by District in January 2026.

**ISSUE 2A: DID DISTRICT CONDUCT A LEGALLY INCOMPLIANT
MANIFESTATION DETERMINATION MEETING ON JANUARY 22, 2026
BY FAILING TO HAVE RELEVANT MEMBERS OF THE TEAM PRESENT,
SPECIFICALLY, A SCHOOL PSYCHOLOGIST OR QUALIFIED CLINICIAN TO
INTERPRET EVALUATION DATA?**

Student contends that the manifestation determination meeting conducted by District on January 22, 2026 failed to comply with the IDEA because there was no school psychologist or qualified clinician in attendance capable of interpreting the cognitive and behavioral data related to the Student’s suspected disability of “ADHD/Executive Dysfunction.” Student argues that Assistant Director Forrester lacked the specialized clinical knowledge required to determine if Student’s conduct had a direct and substantial relationship to a disability that District had not yet formally evaluated,

including ADHD-related impulsivity. Student argues that the presence of such a specialist was legally necessary, making the January 22, 2026 manifestation team legally deficient.

District contends OAH does not have jurisdiction to decide Issue 2A because the manifestation determination conducted on January 22, 2026, was conducted pursuant to Section 504 of the Rehabilitation Act of 1973, not the IDEA. District argues that the IDEA requirements for conducting a manifestation determination are detailed and prescriptive, including the composition of the team, specific inquiries to be made, and the scope of the information to be considered. It argues that there are no comparable requirements for Section 504 manifestation determinations. Based on its claim that OAH does not have jurisdiction, District offers no additional written argument, claiming the issue is moot.

Although the term manifestation determination does not appear in Section 504 regulations, the Office of Civil Rights and most courts interpret Section 504 as requiring a manifestation determination before disciplinary changes of placement. (See, e.g., *Ft. Larned (KS) Unified School Dist.* 495 (Office of Civil Rights (OCR), April 19, 2024); *Polk County (FL) Public Schools* (OCR, January 7, 2022). A school district can satisfy its Section 504 obligations by providing a Section 504 student with the same disciplinary protections that are available to IDEA-eligible students. (See, *Doe v. Osseo Area School Dist., ISD No. 279* (D.Minn. 2017) 296 F.Supp.3d 1090, 1098.) Manifestation determinations conducted for IDEA-eligible students and those covered only under Section 504 Plan are conducted in similar ways. (See, *Id.*; *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*

(Office of Special Education and Rehabilitative Services, July 19, 2022); *OCR Staff Memorandum* (OCR, November 13, 1989); *Dunkin (MO) R-V School District* (OCR January 8, 2009).)

When required, a manifestation determination must be conducted within 10 school days of any decision to change the placement of a child with a disability. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1).) The required members include the local educational agency, the parent, and relevant members of the child's IEP team. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1).) The required members must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, among other things. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1).)

An IEP team meeting must include *at least* the following:

- at least one parent;
- a representative of the local educational agency;
- a regular education teacher of the child if the child is, or may be, participating in the regular education environment;
- a special education teacher of the pupil or one special education provider of the child;
- an individual who can interpret the instructional implications of assessment results;

- other individuals who have knowledge or special expertise regarding the pupil, as invited at the discretion of the district, parent or guardian; and
- when appropriate, the student.

(20 U.S.C. § 1414(d)(1)(B); Ed. Code, § 56341, subs. (b) and (d).)

THE JANUARY 22, 2026 MANIFESTATION DETERMINATION

On January 22, 2026, District convened a Section 504 manifestation determination regarding the relationship between Student's disability and the behavior subject to disciplinary action, specifically, Student's behavior recited in the January 9, 2026 suspension notice involving the vape pen. Mother and Grandfather attended the meeting, along with

- 504 Coordinator Jasso,
- Assistant Principals James Ramirez and Brian Kiunke,
- Principal Shada Weaver,
- Assistant Director of Student Support Services Kendall Forrester, who facilitated the meeting, and
- two general education teachers, Jane Troy and Angela Reynolds.

During the meeting, Ramirez provided a description of Student's behavior incident and informed the team Student was suspended and recommended for expulsion. Forrester explained that Grandfather had sent information by email regarding the incident which would be uploaded as part of Student's records. District staff received and had already had the opportunity to review this information. In the

email, Grandfather complained that Student's education was at a standstill, that he had already been removed from school for 25 days during the 2025-2026 school year which violated the law, and demanded the suspension be lifted. He also complained that evidence obtained by District was not reliable, and that Student's teachers were blocking Student's ability to get complete essential assessments and completion of his schoolwork. Grandfather requested that if the suspension was not lifted, Student be provided a formal change of placement to an alternative setting that provided full services.

At the meeting, Forrester explained that the focus of the manifestation determination was Student's selling of the THC pen, not his use of drugs. Grandfather challenged the evidence the disciplinary charge was based on and accused District of failing to consider all the evidence provided, including Student's negative drug testing provided by Grandfather. The investigation and drugs tests were discussed. Grandfather explained he had met with Student's outside behavior clinicians who told him the sale of the pen within a few hours very likely could have been caused by impulsivity, but District personnel told Grandfather he could not speak for someone else. Grandfather also stated he researched the issue which supported his argument regarding ADHD impulsiveness. Grandfather also shared that executive dysfunction involved people doing things to get people to like them.

Forrester stated that impulsiveness was engaging in conduct in the moment and that selling a vape pen required planning. Grandfather stated that even if Student sold the pen, it did not mean Student planned the sale. Ramirez shared there was no evidence of impulsivity because an hour and 27 minutes passed between Student buying the pen and then selling it to a peer. Grandfather also stated he thought

Student's conduct was part of social mimicking and a symptom of executive dysfunction. Forrester declared that social mimicry was not a symptom of executive dysfunction.

Mother stated she believed the conduct was related to Student's impulsiveness and peer pressure. She wondered what happened with the special education assessment she had requested in November 2025 and asked if the proceedings could be paused until after the assessment. After explaining that consent for assessment had been revoked and District had 15 days to consider any new request for assessment, Forrester said Student's conduct appeared to have happened with a plan and there were no findings during the investigation that the behavior was impulsive. Forrester denied that the conduct was impulsive action, concluding it was not related to Student's ADHD or to executive dysfunction, or the result of failing to implement Student's Section 504 Plan.

Grandfather stated it was the responsibility of District to update Student's Section 504 Plan and that it was ineffective. Grandfather explained Student had 65 tardies and nearly daily incidents reported by his teachers, but District failed to update Student's Section 504 Plan.

General education teacher Troy shared that Student was called out of class for extra counseling support, that Student sat next to Troy and Troy encouraged Student to complete his work. Troy reported sometimes Student decided not to complete his work, and that emails had been sent home about Student's incomplete work. Troy also reported that Student did not bring his books to class, and even after Student retrieved them from his locker, it took him a long time to get settled.

Grandfather stated Student was supposed to be getting 30 minutes of counseling a week under his Section 504 Plan, but regardless, the Section 504 Plan was insufficient and that Student needed further testing, perhaps an IEP. Grandfather explained that he cancelled the prior testing because he thought District also needed to conduct a functional behavior assessment. Grandfather objected to District keeping Student out of school for 25 days without an alternative placement, to which District personnel informed him that if an expulsion was in progress, District could continue to keep him out of school and that grandfather was relying on the wrong law for his arguments.

Grandfather also complained that although he received weekly packets of work from Student's teachers, they said Student was required to complete the work when Student was physically present at school. Grandfather complained that District was denying Student an education. Grandfather also complained that Forrester was making "rulings" on her own and that the manifestation determination was supposed to be a group decision.

District members of the team concluded that Student's behavior was not a manifestation of his disability. They concluded that the behavior was not caused by nor had a direct or substantial relationship to Student's disability and it was not the direct result of District's failure to implement his current 504 Plan. Grandfather stated that both he and Mother disagreed and Forrester stated that their disagreement would be "noted." At the end of the meeting, Parent again requested that Student be assessed for eligibility for special education.

After the January 22, 2026 Section 504 manifestation determination, Grandfather wrote an email on January 22, 2026, to District memorializing some of what occurred during the meeting. Grandfather's email also offered additional commentary as to his

perceived defects in the process, including research that ADHD impulsivity did not necessarily mean “of the moment,” and that Forrester was mistaken. Grandfather complained that there was no one with clinical knowledge about ADHD at the January 22, 2026 meeting, and that such person was necessary for team to determine whether the conduct at issue related to Student’s disability. At hearing, Grandfather explained that Forrester was relying on a layman’s definition of ADHD impulsivity, rather than a clinical definition which led the team to wrongly conclude the sale of the pen was not related to Student’s disability.

After the meeting, District also extended Student’s suspension through the date of his expulsion which Grandfather testified occurred on or about February 19 or 20, 2026, and was not rebutted by District.

DISTRICT DID NOT CONDUCT AN IDEA-COMPLIANT MANIFESTATION DETERMINATION MEETING BECAUSE IT FAILED TO HAVE A SCHOOL PSYCHOLOGIST IN ATTENDANCE

Forrester testified she used the IDEA manifestation determination process to conduct the January 22, 2026 Section 504 manifestation determination. She also testified there was nothing District did not do at the January 22, 2026 meeting that it would have been done if Student had already had an IEP.

This Decision does not address whether District conducted a manifestation determination compliant with Section 504 on January 22, 2026, because OAH does not have jurisdiction to adjudicate violations of Section 504. However, OAH does have jurisdiction to determine if the January 22, 2026 manifestation determination complied with the IDEA.

In Issues 2A, 2C and 2D, the ALJ has only adjudicated whether District conducted an IDEA-compliant manifestation determination on January 22, 2026, based on Student's specific procedural challenges to that meeting. During the hearing the ALJ asked the parties to brief certain issues, including whether the January 22, 2026 manifestation determination complied with the IDEA, notwithstanding District's jurisdictional defense. District failed to provide such briefing in its written closing for Issues 2A, 2C and 2D, thus, appearing to abandon its other defenses.

Here, District's failure to have a school psychologist or an individual who could interpret the instructional implications of any assessment, violated Student's rights under Title 20 United States Code section 1415(k)(1)(E)(i) and 34 Code of Federal Regulations part 300.530(e)(1). By January 2026, District was already in the process of conducting a current special education assessment of Student pursuant to the December 1, 2025 assessment plan. Excluding academic achievement, all the proposed areas of assessments were being conducted by District's school psychologist, including social/emotional behavior, self/help adaptive skills, intellectual development, and apparently also health.

Indeed, only a school psychologist was qualified to have conducted Student's psychoeducational evaluation and interpret that assessment. (See Ed. Code, § 56324, subd. (a).) Clearly, a school psychologist would have been required to be present for any IEP team meeting held to review the results of Student's psychoeducational evaluation. As such, a school psychologist was one of the "relevant members of the IEP team" for any IDEA manifestation determination regarding whether Student's conduct at issue at the January 22, 2026 manifestation determination was caused by or had a direct and substantial relationship to his disability. (20 U.S.C. § 1415(k)(1)(E)(i); 34 C.F.R. § 300.530(e)(1).)

Having the school psychologist present for any January 22, 2026 IDEA manifestation determination was even more critical given Student was not currently eligible for special education. Accordingly, it was impossible for Student's special education teacher or Student's special education provider to attend the January 22, 2026 manifestation determination meeting because he had no special education teachers or providers. And Forrester, who had not been employed as special education teacher since 2007, did not know Student. When asked at hearing to describe Student, she made it clear she had only seen him momentarily during a passing period when he was pointed out to her. Whatever she knew about Student prior to the January 22, 2026 manifestation determination was based solely on her attendance at the November 19, 2025 manifestation determination and whatever she had otherwise read about him or what others told her about him. Although Forrester held a master's degree in special education, which included courses in symptomology of disabilities, and credentials in administrative services and education specialist instruction, she was not a school psychologist. She was unqualified to conduct a psychoeducational evaluation or determine whether Student had a special education qualifying disability based on ADHD. Based also on District's concessions that a school psychologist was required for an IDEA-compliant manifestation determination, as further discussed below, input from a school psychologist was required.

Moreover, as discussed in Issue 1, but for District's misrepresentations to obtain Grandfather's and Mother's revocation of consent, Student's new initial evaluation would have been completed before the manifestation determination. At hearing, Forrester testified that when there was a pending disciplinary or expulsion proceeding, District practice was to pause those proceedings to complete the special education assessment to first determine if the suspected disability was a disability. Relying instead

on the revocation it improperly obtained from Grandfather and Mother on January 12, 2026 while disciplinary proceedings against Student were pending, District failed to complete its special education evaluation before the manifestation determination. It is against this backdrop that District was required to have a school psychologist present on January 22, 2026 for an IDEA-compliant manifestation determination.

Significantly, on the first day of hearing, through their counsel, District conceded that it did not conduct a manifestation determination under the IDEA. It also conceded that the January 22, 2026 manifestation determination did not comply with the IDEA, because under the IDEA a school psychologist was required to be in attendance and that no school psychologist was present.

Later, during the hearing, District's counsel tried to "take back" her prior concession on District's behalf regarding the IDEA requiring the attendance of the school psychologist. However, District's closing argument does argue or otherwise address this issue to explain why a school psychologist was unnecessary for IDEA compliance. It is not the ALJ's responsibility to construct or develop a party's argument. (See *Loewen v. Berryhill* (9th Cir. 2017) 707 Fed. Appx. 907, 908 [nonpub. opn.], citing *Carmickle v. Commissioner* (9th Cir. 2008) 533 F.3d 1155, 1161, fn. 2 [the court is not required to address arguments made without specificity]; *Independent Towers of Washington v. Washington* (9th Cir. 2003) 350 F.3d 925, 929 [the court cannot construct arguments for a party, and will only examine issues specifically and distinctly argued in a party's brief].) As such, District appears to have either withdrawn or abandoned this argument.

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Based on District having conceded it did not conduct an IDEA-compliant manifestation determination on January 22, 2026 because a school psychologist did not attend the meeting, together with District's failure to brief the issue, and the ALJ's rationale for requiring the attendance of a school psychologist, Student prevailed on Issue 2A.

District failed to conduct a legally compliant manifestation determination meeting on January 22, 2026, by failing to have relevant members of the team present, specifically, a school psychologist or qualified clinician to interpret evaluation data.

**ISSUE 2C: DID DISTRICT CONDUCT A LEGALLY INCOMPLIANT
MANIFESTATION DETERMINATION MEETING ON JANUARY 22, 2026,
BY FAILING TO REVIEW RELEVANT INFORMATION PROVIDED BY PARENT?**

Student contends in his written closing brief, that District failed to conduct an IDEA-compliant manifestation determination on January 22, 2026, because it failed to consider Parent's input regarding Student impulsiveness and the nature of his suspected disability. Student contends that Parent's input was omitted from the final determination and Parent was excluded from the final consensus, relying on the lack of Parent's signature on the Section 504 manifestation determination meeting summary, the concomitant sign-in sheet, and the meeting notes. Student argues that the team was required to review all relevant information provided by Parent.

District contends as it did with Issue 2A, that Issue 2C is moot because OAH does not have jurisdiction to decide Issue 2C. District contends the evidence established that the January 22, 2026 manifestation determination meeting was conducted pursuant to Section 504, rather than the IDEA. Accordingly, District contends, OAH

cannot adjudicate the procedural challenge to the January 22, 2026 manifestation determination because OAH does not have jurisdiction to decide Section 504 violations. District neglected to offer any additional written argument despite the ALJ's request for briefing. Besides its jurisdictional defenses, District has apparently abandoned its other arguments regarding Issue 2C.

As noted above, in Issue 2C, this Decision only addresses whether District conducted an IDEA-incompliant manifestation determination on January 22, 2026, based on Student's charge that District failed to review all relevant information provided by Parent. Contrary to District's assertions, OAH has jurisdiction to determine whether the Section 504 manifestation determination conducted on January 22, 2026 failed to comply with the IDEA's manifestation determination requirements.

The parents of a child are required members of a manifestation determination meeting. (20 U.S.C. § 1415(k)(1)(E)(i); 34 C.F.R. § 300.530(e)(1).) Under the IDEA, a school district is required as part of its manifestation determination to consider any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1).)

The IDEA's procedural safeguards are intended to protect the informed involvement of parents in the development of an education for their child. (E.g., *Winkelman v. Parma City School Dist.* (2007) 550 U.S. 516, 524 [127 S. Ct. 1994].) Protection of parental participation is "[a]mong the most important procedural safeguards" in the IDEA. (See, *Amanda J. v. Clark County School Dist.* (9th Cir. 2001) 267 F.3d 877, 882 (*Amanda J.*).) Parents not only represent the best interests of their child but also provide information which only they are in a position to know. (*Ibid.*)

Procedural violations that interfere with parental participation undermine the very essence of the IDEA. (*Id.* at p. 892; see also, *W.G., et al. v. Board of Trustees of Target Range School Dist., etc.* (9th Cir. 1992) 960 F.2d 1479, 1484, [superseded in part by statute on other grounds].) Parent participation must be more than a mere form; it must be meaningful. (*Id.* at p. 1485.) Meaningful participation requires a qualitative determination and not the application of a mechanical test. The failure to provide necessary information can deprive parents of the ability to meaningfully participate. (Cf., *Timothy O. v. Paso Robles Unified School Dist.* (9th Cir. 2016) 822 F.3d 1105, 1125-1126.)

At hearing regarding Issue 2C, Grandfather testified District failed to review essentially everything he provided, in that his input was responded to with, "noted," or the like. Grandfather testified District failed to consider Student's negative drug test, along with photo and video evidence which Grandfather provided, Grandfather's opinions regarding impulsiveness, what he had been told by Student's outside clinicians, and how the alleged incident could have been related to ADHD. He also asserted that District failed to consider Student's record of 65 tardies, "a whole bunch of stuff" he emailed to the team including teacher complaints, Student's prior manifestation determinations and outside evaluations. Grandfather claimed the items District failed to consider were listed in his January 22, 2026 email sent to District after the manifestation determination. Grandfather testified District also failed to consider his input that Student's statements about the incident were coerced, and the statements District obtained about the incident were hearsay. Grandfather claimed his input was not considered because there was no discussion on January 22, 2026, about these items, except to say, "duly noted."

Student proved District failed to consider all relevant information provided by Grandfather at the January 22, 2026 manifestation determination. The evidence established that District did not properly consider Grandfather's input on the issue of impulsivity. When Grandfather attempted to provide information from Student's outside clinical team that Student's conduct regarding the alleged sale of the vape pen could be the result of his ADHD impulsivity even if the purchase and sale of the pen had been over a few hours, District told him he was not allowed to speak for someone else. When Grandfather explained he had done some research which corroborated what his outside clinicians told him, Forrester summarily informed him that impulsive behavior meant something done "in the moment." According to District's notes, when Forrester inquired of Assistant Principal Ramirez if there was any evidence regarding impulsivity he said, "no," pointing only to Student buying and selling the pen within a one hour and 27-minute period. Forrester concluded that selling a vape pen required planning, and therefore determined it was not an impulsive action and not related to Student's ADHD. When Grandfather stated that even if Student sold the pen, it did not mean Student planned it, and that he could have acted impulsively in selling it. Forrester's comment was that his comment would be "noted."

District failed to properly consider Grandfather's input regarding impulsiveness as it related to Student's disability and the conduct in question. District did not seriously consider Grandfather's input that Forrester had defined impulsive behavior too narrowly. Instead, Forrester singularly decided what the term "impulsive" meant, and how it applied in this situation for a student she did not know, despite the evidence that Student had allegedly only had the pen for an hour and a half, and that Student's negative drug test should have cast doubt as to the reliability of the statements District obtained. District staff did not attempt to probe further to learn what Grandfather was

told by Student's outside providers or meaningfully discuss the research he did or do any further investigation into Grandfather's input regarding whether Forrester's definition of impulsivity was too narrow as it applied to Student in this situation.

Because there was no school psychologist present at the January 22, 2026 manifestation determination, District did not obtain input from the only person qualified to conduct a psychoeducational evaluation or interpret the results of Student's assessments to weigh in on how Student's ADHD could have manifested in this situation. Further, by its wrongful actions discussed in Issue 1, District failed to complete Student's ongoing special education assessment which could have informed the manifestation determination team regarding this issue. Timely finishing that assessment and having a school psychologist present to inform the team regarding Student's unique profile as it related to his disability and the conduct at issue, would have been a way to meaningfully consider Parent's input on this issue. District's failure to do either demonstrated that it failed to meaningfully consider relevant information provided by Grandfather and Parent that Student's behavior was impulsive, or otherwise a manifestation of his disability.

Student did not otherwise meet his burden of proof as to the other parent input items he claims District failed to consider. Among other things, Student failed to sufficiently explain why Grandfather's mentioning of Student's 65 prior tardies was relevant to an IDEA-compliant manifestation determination regarding the sale of the vape pen. Student also failed to adequately explain how the information Grandfather provided to District before the January 22, 2026 meeting was relevant to the manifestation determination regarding the sale of the vape pen. In fact, it was

not made clear at the hearing what relevant information was in those documents Grandfather sent. The evidence did not establish what information was in the teacher complaints, Student's prior manifestation determinations and the outside evaluations. In any event, the notes of the January 22, 2026 meeting stated that staff received and had the opportunity to review the information from Grandfather.

As to Student's negative drug test, it appears District did consider it because the scope of the manifestation determination did not include Student's alleged use of drugs. Student did not prove that the January 22, 2026 manifestation determination was flawed because District failed to consider Grandfather's claim that Student's statement about the incident was coerced and the witness statements were hearsay. At the meeting, Forrester explained the function of a school investigation. Moreover, neither party proffered the witness statements in evidence, and the evidence was conflicting regarding the discussion regarding those statements.

Finally, although Student claims Grandfather and Mother were omitted from the final determination and consensus, the evidence did not support Student's assertion. They may not have signed the Section 504 Summary and sign-in sheets, but the evidence established that their dissent to District's decision was clear.

District failed to conduct a legally compliant IDEA manifestation determination meeting on January 22, 2026 by failing to review relevant information provided by Parent regarding impulsiveness.

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ISSUE 2D: DID DISTRICT CONDUCT A LEGALLY INCOMPLIANT
MANIFESTATION DETERMINATION MEETING ON JANUARY 22, 2026,
BY PREDETERMINING THE MANIFESTATION DETERMINATION DECISION?

Student contends District made the decision to expel before the manifestation determination meeting was concluded. Student contends that this was demonstrated by District's non-clinical split-second definition of impulsiveness and its decision to exclude Student for 21 days before the manifestation determination was finalized. Student argues that District was required to conduct a manifestation determination within 10 days of the decision to change Student's placement, rendering the continued exclusion unlawful. Student contends this unauthorized change of placement prior to the final ruling indicates District had no intention of conducting a fair manifestation determination. Student contends District applied a narrow, predetermined definition of behavior to ensure a "no manifestation" finding, relying on the notes of the January 22, 2026 meeting.

District contends Issue 2D is moot based on the same Section 504 jurisdictional defense it made regarding Issues 2A and 2C – that OAH does not have jurisdiction to decide whether the January 22, 2026 was non-compliant with the IDEA because the meeting was conducted pursuant to Section 504 and OAH did not have jurisdiction to adjudicate Section 504 claims. District neglected to offer any additional written argument despite the ALJ's request for briefing. Besides its jurisdictional defense, District has apparently abandoned all other arguments regarding Issue 2D.

As noted above, in Issue 2D, this Decision only addresses whether District conducted an IDEA-incompliant manifestation determination on January 22, 2026, based on Student's charge that District's manifestation determination was

predetermined. OAH has jurisdiction to determine whether the Section 504 manifestation determination conducted on January 22, 2026, failed to comply with the IDEA's manifestation determination requirements regarding predetermination.

Under the IDEA, a school district is required to make its manifestation determination only after reviewing all relevant information in the student's file, any teacher observations, and any relevant information provided by the parents. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1).)

A school district's predetermination seriously infringes on a parent's rights. (See, *Deal v. Hamilton County Board of Education* (6th Cir. 2004) 392 F.3d 840, 859 (*Deal*).) By analogy to IEPs, a school district that predetermines the child's program and does not consider parents' requests with an open mind has denied the parents' right to participate. (*Deal, supra*, 392 F.3d at p. 858; *Ms. S. ex rel. G. v. Vashon Island School Dist.* (9th Cir. 2003) 337 F.3d 1115, 1131 [superseded on other grounds by statute].) Predetermination occurs when an educational agency has made its decision prior to the IEP team meeting and is unwilling to consider other alternatives. (*Deal, supra*, 392 F.3d at pp. 857-858; *H.B. v. Las Virgenes Unified School Dist.* (9th Cir., July 3, 2007, No. 05-56486) 239 Fed. Appx. 342, 344-345 [nonpub. opn.].) School officials may permissibly form opinions prior to IEP team meetings. However, if the district goes beyond forming opinions and becomes "impermissibly and deeply wedded to a single course of action," this amounts to predetermination. (*P.C. v. Milford Exempted Village Schools* (S.D. Ohio, January 17, 2013, No. 1:11-CV-398) 2013 WL 209478, *7.)

At hearing regarding Issue 2D, Grandfather testified District predetermined the outcome of January 22, 2026 manifestation determination. He based this on his perception that Forrester unilaterally determined the outcome, rather than the team.

Grandfather also based this claim on Forrester orally announcing the manifestation determination decision at the end of the January 22, 2026 meeting without a vote and never provided Grandfather with a manifestation determination decision in writing. Grandfather believed the decision was predetermined based on Ramirez stating at the beginning of the meeting that Student's conduct was not a manifestation of Student's disability before any discussion had taken place, and because District immediately moved to expel Student. Grandfather also believed predetermination was "implied" by District dismissing his counterarguments during the meeting.

Student failed to prove by a preponderance of the evidence that the manifestation determination decision rendered by the District on January 22, 2026 was predetermined. While Student points to parts of the process that were unfair, this did not establish that the ultimate decision was predetermined. Ramirez may have given his opinion at the beginning of the meeting, but Student did not establish Ramirez was impermissibly and deeply wedded to a single course of action. In fact, Grandfather claims it was Forrester who made the decision, not Ramirez. Even if Forrester made the decision, Student did not prove that her decision was determined prior to the meeting or she was wedded to one outcome. She solicited input from the team members and although she did not agree with Grandfather's arguments and may be mistaken about what constituted impulsive as it related to Student and the conduct at issue, this did not establish predetermination. While Grandfather claimed that only Forrester made the decision, Section 504 Coordinator Jasso testified that Forrester asked the other members if they agreed that Student's conduct was not a manifestation of his disability, and only Grandfather and Mother disagreed.

Nor does the fact that District orally made the Decision at the meeting without providing Grandfather a written decision establish predetermination. Grandfather did not persuasively explain this argument as it relates to predetermination.

Likewise, Student's argument is also unclear as to how the number of days he was suspended or the timing of the manifestation determination amounted to predetermination. Although District should not have moved to expel Student given Parent's requests for assessment as discussed in Issue 1, Student did not demonstrate it rose to the level of predetermination.

Student failed to prove by a preponderance of the evidence that District conducted a legally incompliant manifestation determination meeting on January 22, 2026 by predetermining the manifestation determination decision.

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:

Simi Valley had a basis of knowledge that Student was a child with a disability entitling Student to the protections of the IDEA with regard the discipline imposed by Simi Valley in January 2026.

Student prevailed on Issue 1.

ISSUE 2A:

Simi Valley conducted a legally noncompliant manifestation determination meeting on January 22, 2026, by failing to have relevant members of the team present, specifically, a school psychologist or qualified clinician to interpret evaluation data.

Student prevailed on Issue 2A.

ISSUE 2C:

Simi Valley conducted a legally noncompliant manifestation determination meeting on January 22, 2026, by failing to review relevant information from Parent.

Student prevailed on Issue 2C.

ISSUE 2D:

Simi Valley did not conduct a legally noncompliant manifestation determination meeting on January 22, 2026 by predetermining the manifestation determination decision.

District prevailed on Issue 2D.

REMEDIES

Student prevailed on Issues 1, 2A and 2C. As a remedy, Student requests in his written closing argument, that OAH vacate the January 22, 2026 manifestation determination and resulting expulsion, and order Student's immediate return to his

school of residence. Student also requests expungement of all references to the January 2026 incident, his exclusion and expulsion, from his educational records. He also seeks an order excusing all assignments, tests, and projects missed during the period of his illegal exclusion from his grade calculations, i.e., January 12, 2026, to the present. Student also seeks an order that District provide academic support or credit recovery services sufficient to place Student where he would have been but for his unlawful exclusion. Finally, Student seeks an order that District fund an independent educational evaluation to determine Student's disability and needs, and conduct a functional behavior assessment to develop a behavioral support plan upon Student's return.

District did not address Student's remedies in its written closing brief other than declare in conclusory fashion without any proper analysis, that Student's only remedy should be an IDEA manifestation determination.

An ALJ hearing an appeal under Title 20 United States Code section 1415(k) may order that a student be returned to his or her original placement. (20 U.S.C. § 1415(k)(3)(B); 34 C.F.R. § 300.532(b).) An ALJ may order a school district to conduct a manifestation determination under section 1415(k) if the ALJ determines the school district failed to do so. (See, 20 U.S.C. § 1415(k)(3)(A) & (B); 34 C.F.R. 300.532(a) & (b).) Section 1415(k)(3) does not limit a hearing officer from awarding other equitable remedies to craft appropriate relief. (20 U.S.C. § 1415(k)(3); see e.g. *Parents of Student W. v. Puyallup School Dist. No. 3* (9th Cir. 1994) 31 F.3d 1489, 1497 (*Puyallup*).) Courts have long recognized that equitable considerations are appropriate when fashioning relief for violations of the IDEA. (See, *Puyallup, supra*, 31 F.3d at p. 1496, citing *School Committee of Burlington v. Department of Education* (1985) 471 U.S. 359, 374 [105 S.Ct. 1996, 85 L.Ed.2d 385]; see also, *Greenland School Dist. v. Amy N.* (1st Cir. 2004) 358 F.3d 150, 158.)

In *Jay F. v. William S. Hart Union High School District* (9th Cir 2017) 772 Fed.Appx. 578, the Ninth Circuit not only affirmed the district court's finding that student's misconduct was a manifestation of his disability but also affirmed the expungement of the student's expulsion and suspended the expulsion agreement resulting from student's misconduct. (772 Fed.Appx. at p. 579 [nonpub. opn.].) In fact, OAH has set aside manifestation determinations and expulsions where a school district has failed to properly comply with the IDEA and its implementing regulations regarding disciplinary removals. (See, e.g.,

- *Student v. Menifee Union School District* (OAH, April 21, 2020, Case No. 2020020214) [determining school district had a basis of knowledge and ordering reversal of Student's expulsion, expungement of all references from student's educational records, and immediate reinstatement of student to his general education school placement];
- *Student v. Los Angeles Unified School Dist.* (OAH, October 12, 2017, Case No. 2017081054) [where manifestation determination was incorrect, reversing manifestation determination and rescinding expulsion decision, and ordering expungement from student's cumulative file];
- *Parent v. William S. Hart Union High School Dist.* (OAH, October 13, 2017, Case No. 2017081232) [ordering immediate reinstatement of student to her comprehensive high school and expungement of all references to expulsion from her school records];

- *Parent v. Fairfield-Suisun Unified School Dist.* (OAH, May 25, 2012, Case No. 2012030917) [reinstating general education student after expulsion where district had a basis of knowledge and ordering removal of expulsion from student's records if district did not conduct a manifestation determination];
- *Student v. Capistrano Unified School Dist.* (OAH, July 31, 2006, Case No. 2006051005 [ordering immediate termination of pending expulsion proceedings, where district had a basis of knowledge and failed to conduct a manifestation determination].)

District had a basis of knowledge that Student was a child with a disability entitling Student to the protections of the IDEA regarding the discipline it imposed on him in January 2026, resulting in his suspension beginning January 12, 2026, and his subsequent expulsion from school. Despite this basis of knowledge, District improperly induced Grandfather and Mother to revoke consent to the ongoing special education assessment despite Student's suspension and pending expulsion. District did not complete the special education assessment and conducted a Section 504 Plan manifestation determination on January 22, 2026. The preponderance of the evidence established that District did not conduct an IDEA-compliant manifestation determination on January 22, 2026, because it failed to have a school psychologist or other individual who could interpret the implications of Student's assessments, and failed to properly consider relevant information provided by Parent regarding the issue of impulsivity. District should have held a manifestation determination complying with the IDEA before it further suspended and then expelled Student.

However, crafting an appropriate remedy in this case is a little complicated. The 10-day period for holding an IDEA manifestation determination has long since passed and Student has been out of his prior placement since January 12, 2026. The added difficulty is that the purpose of a manifestation determination is to decide if a student's misconduct was caused by or had a direct and substantial relationship to the student's disability. It is impossible to make that determination in Student's case given that District never completed its special education evaluation pursuant to the December 1, 2025 assessment plan due to its own wrongful conduct.

Based on what occurred in this case, including that District had a "basis of knowledge," and exercising the ALJ's equitable authority, the ALJ determines that the appropriate remedy is as follows:

- Student is entitled to have the January 22, 2026 manifestation determination decision set aside and expungement of the January 22, 2026 manifestation determination decision from his cumulative file.
- Student is also entitled to have his expulsion set aside and expungement of the expulsion from his cumulative file.
- Because of District's failure to comply with the IDEA regarding Student's disciplinary change of placement as determined in this Expedited Decision, at this point in time, Student is also entitled to return to the District school he was attending before he was notified of his suspension on January 9, 2026.

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Notwithstanding the foregoing, nothing in this Expedited Decision prohibits District from conducting a manifestation determination compliant with the IDEA regarding the same conduct reviewed on January 22, 2026, after District completes Student's special education evaluation and an IEP team meeting is held to review the results of the evaluation to determine if Student is a child with an IDEA-qualifying disability. In that event, the IDEA manifestation determination shall be held within 10 days from the date of this Expedited Decision, or 10 days from the date District completes its special education evaluation of Student, whichever occurs later. A school psychologist shall attend any IDEA manifestation determination conducted because a school psychologist is a relevant member of any IEP team under these circumstances as addressed in Issue 2A. If an IDEA manifestation determination is held, the provisions of Title 20 United States Code section 1415(k) and 34 Code of Federal Regulations part 300.530, et seq. shall apply in determining Student's placement after the manifestation determination. These laws will help guide the team in the event Student's conduct is determined to be a manifestation of Student's disability, and in the event, the conduct is determined not to be a manifestation of Student's disability. District shall consider the number of school days Student has already been removed from his prior placement as a result of the conduct described in the January 9, 2026 suspension notice.

The ALJ declines to order any further relief requested by Student. Student failed to prove or otherwise identify the assignments, tests, and projects he contends he missed. Given the lack of evidence on this point, Student otherwise failed to prove that excusing these assignments, tests and projects was appropriate relief in the expedited due process hearing. Grades are required to be determined by the teacher of the course and there is a process for making grade changes. (See, Ed. Code, § 49066, subds. (a) and (b).)

Likewise, Student presented no evidence regarding his need for the academic support or credit recovery services, nor did he establish entitlement to compensatory education as a remedy in the expedited case.

As of the last day of hearing, Student was not currently eligible for special education, but a new assessment plan was signed by Grandfather in February 2026, which included a functional behavior assessment. Also, there is a process for obtaining independent educational evaluations at public expense when a parent disagrees with an evaluation conducted by a school district. (See, 20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502 (a)(1), (b)(1) & (2); Ed. Code, § 56329, subd. (b) [incorporating 34 C.F.R. § 300.502 by reference]; Ed. Code, § 56506, subd. (c).) Accordingly, the ALJ also declines to order any assessments requested by Student.

ORDER

1. The January 22, 2026 manifestation determination decision is set aside. Within 15 school days of this Expedited Decision, District shall expunge the January 22, 2026 manifestation determination decision from Student's cumulative file.
2. District's decision to expel Student in February 2026 following the January 22, 2026 manifestation determination is set aside. Within 15 school days, District shall expunge from Student's cumulative file his February 2026 expulsion.

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3. Upon Mother's written request, District shall enroll Student in the District school he was attending at the time of the January 9, 2026 suspension notice unless the parties otherwise agree to a different placement.
4. District may conduct a manifestation determination compliant with the IDEA regarding the same conduct reviewed on January 22, 2026, after District completes Student's special education evaluation and an IEP team meeting is held to review the results of the evaluation to determine if Student is a child with an IDEA-qualifying disability. In that event, the IDEA manifestation determination shall be held within 10 school days from the date of this Expedited Decision, or 10 school days from the date District completes its special education evaluation of Student, whichever occurs later. A school psychologist shall attend any IDEA manifestation determination conducted. District shall consider the number of school days Student has already been removed from his prior placement as a result of the conduct described in the January 9, 2026 suspension notice.
5. All other relief sought by Student is denied.

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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.

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings