BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

MONROVIA UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

CASE NO. 2025070266

DECISION

DECEMBER 29, 2025

On July 7, 2025, the Office of Administrative Hearings, called OAH, received a due process hearing request from Monrovia Unified School District, naming Student. OAH continued the due process hearing for good cause on July 21, 2025.

Administrative Law Judge Rommel P. Cruz heard this matter by videoconference on October 7, 8, 9, 14, 15, 16, and 21, 2025. Attorney Vivian Randolph represented Monrovia Unified. Monrovia Unified Program Specialist Cara Reyes, Ph.D., attended all hearing days on Monrovia Unified's behalf. Attorney David German represented Student. Parents attended all hearing days on Student's behalf.

At the parties' request, the matter was continued to December 5, 2025, for written closing briefs. The record was closed, and the matter was submitted on December 5, 2025.

ISSUE

A free appropriate public education is called a FAPE. An individualized education program is called an IEP.

At the start of the hearing, the Administrative Law Judge and the parties clarified the Issue for hearing. The IEP at issue in this matter was developed over three meetings, on February 3, March 3, and April 7, 2025, and is referred to as the February 3, 2025 IEP. The February 3, 2025 IEP was not an amendment. The sole issue to be heard and decided in this matter is as follows:

Did Monrovia Unified's February 3, 2025 IEP offer Student a FAPE in the least restrictive environment?

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 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).)

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 FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issue 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).) Monrovia Unified requested the hearing, and therefore, had the burden of proving the sole issue. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 14 years old when the hearing began, and 15 years old when the hearing concluded. She was in ninth grade at the time of hearing and resided within Monrovia Unified's geographic boundaries at all relevant times.

Student was eligible for special education services under the categories of autism, specific learning disability because of processing deficits, and speech or language impairment. She was also eligible for special education services under the category of other health impairment because of attention deficit hyperactivity disorder. At the time

of hearing, Student was not attending a Monrovia Unified school. Instead, Student was receiving academic instruction and related services in a home-based program since the 2018-2019 school year.

STUDENT'S HOME PROGRAM DURING THE 2024-2025 SCHOOL YEAR

During the 2024-2025 school year, Student's home program included individual academic instruction, one-to-one support by a behavior aide, and supervision by a board-certified behavior analysist. Student's teacher Susan Britton delivered academic instruction during two and a half hour sessions, four times a week. The behavior aide supported Student during all academic instruction sessions.

Student received academic instruction in a small room, referred to as the home classroom. The home classroom was quiet, with minimal distractions. The room consisted of a bookcase, a file cabinet, chairs, a visual schedule, visual charts, manipulatives, classroom supplies, sensory tools, and a trampoline. The home classroom also had a small desk, roughly 36 inches long and 18 inches wide. Britton, sat on one side of the desk's width, and Student sat directly across Britton.

Student also received occupational therapy services, speech and language therapy services, and vision therapy. In addition, Student received counseling and social skills services, assistive technology support, adapted physical education and other lessons such as art. Student also participated in ballet with a group of neurodivergent children and was a member of a soccer team and girl scouts.

Board-certified behavior analyst Catherine Maldondo provided behavior therapy services to Student since March 2023. Maldonado owned a nonpublic agency, Amada A.B.A. LLC, and was the agency's clinical director. During the 2024-2025 school year, Student's assigned behavior aide was staffed by Maldonado's nonpublic agency. Maldonado supervised the behavior aide and occasionally provided Student aide support when the behavior aide was unavailable.

Licensed clinical psychologist Jennifer Lee-Dick, Psy.D., provided Student 50 minutes a week of counseling services, which began in March 2018. Counseling services were held primarily in Dr. Lee-Dick's office, with a few sessions delivered by video.

MONROVIA UNIFIED'S THREE-YEAR REVIEW REASSESSMENTS

Monrovia Unified's 2024-2025 school year began on August 14, 2024. Monrovia Unified assessed Student at the start of the 2024-2025 school year for her three-year review reassessments. Monrovia Unified contracted with a nonpublic agency, BEAM, to assess Student's cognitive functioning, social-emotional and behavioral functioning, communication development, fine and gross motor skills, and sensory needs. The BEAM assessors presented their findings, conclusions, and recommendations in a written September 30, 2024 multidisciplinary assessment report.

The BEAM assessors concluded Student met special education eligibility criteria for autism, specific learning disability, and speech or language impairment because of a language disorder. The assessors also concluded Student met the eligibility criteria for other health impairment because of attention deficit hyperactivity disorder. The assessors found Student was easily distracted and often preoccupied with external

stimuli, which limited her ability to stay focused on academic tasks. The assessors opined Student's heighted alertness to environmental stimuli limited her alertness in the classroom, which directly affected her capacity to attend to instructions or complete tasks independently.

The BEAM assessors offered recommendations in the September 30, 2024 multidisciplinary assessment report. The assessors recommended Student receive a multi-modality approach to instruction. The assessors also recommended Student receive more time when learning new concepts, and be provided concrete, manipulative materials and examples, with frequent reinforcement and repetitions. The September 30, 2024 multidisciplinary assessment report did not offer any additional recommendations beyond convening an IEP team meeting to review the assessments and to determine Student's eligibility for special education services.

THE IEP TEAM MEETINGS ON FEBRUARY 3, MARCH 3, AND APRIL 7, 2025, AND THE OFFER OF FAPE

Monrovia Unified convened an IEP team meeting on February 3, 2025, to review the September 30, 2024 multidisciplinary assessment report. Among those who attended the meeting were the BEAM assessors, Dr. Reyes, and Monrovia Unified School Psychologist Kelly Osuna. Parents and Student's home program service providers, Maldonado, Britton, and Dr. Lee-Dick also attended the meeting. The BEAM assessors presented their September 30, 2024 multidisciplinary assessment report to the IEP team. At the meeting, the BEAM assessors did not offer any additional recommendations beyond the recommendations described in the September 30, 2024 multidisciplinary assessment report.

At the meeting, Parents requested an assessment of Student's cognitive abilities using a nonverbal measure. Parents also requested an inclusion assessment, which they sought to determine the necessary supports that would help Student successfully transition to a school setting. Monrovia agreed to conduct the assessments and continued the IEP team meeting to March 3, 2025

On February 13, 2025, Monrovia Unified provided Parents with an assessment plan offering an inclusion assessment to be performed by a school psychologist. Parents provided Monrovia Unified written consent to the assessment plan on February 23, 2025. On February 21, 2025, BEAM assessed Student's cognitive abilities using a nonverbal measure.

The IEP team reconvened on March 3, 2025. BEAM assessors presented the results of Student's performance on the nonverbal measure. The team also reviewed the results of a vision assessment. Monrovia Unified did not complete the inclusion assessment. The IEP team determined Student qualified for special education services under the categories of autism, specific learning disability, speech or language impairment, and other health impairment due to attention deficit hyperactivity disorder.

The March 3, 2025 IEP team determined Student had needs in:

- Reading, specifically, understanding word meanings, decoding, phonemic awareness, and difficulties with sight words, letter sounds, and phonetic spelling;
- Writing, specifically writing mechanics and the ability to revise writing, and handwriting;

- Math, specifically math facts, place value, word problems, calculations, and measurements;
- Listening comprehension;
- Gross motor development specifically motor planning, coordination, ball control, and difficulties with upper body strength and endurance;
- Receptive, expressive, and pragmatic language;
- Self-regulation, impulse control, and on-task behavior; and
- Visual tracking, visual analysis, and visual motor integration.

Monrovia Unified offered 30 annual goals in the IEP to address the identified areas of need.

The IEP team also determined Student's behaviors impeded her learning and the learning of others. At the March 3, 2025 IEP team meeting, Maldonado proposed a behavior intervention plan, which the IEP team adopted and included in the IEP. The IEP team meeting was continued to April 7, 2025.

Parents, Dr. Reyes, school psychologist Osuna, Maldonado, Dr. Lee-Dick, and Britton attended the April 7, 2025 IEP team meeting. Monrovia Unified's IEP team members who also attended were:

- Middle school special education teacher Olga Hernandez,
- Middle school general education teacher Erika Ramirez-Morales,
- Adapted physical education teacher Sheri Castro-Nowak,
- Assistive technology specialist Diana Neskovska,
- Secondary program specialist Tod Overton,
- Middle school principal Ashley Leone,

- Board-certified behavior analyst Felipe Campos,
- Speech-language pathologist Lita Manookian,
- High school guidance counselor Noelani Reynoso, and
- High school special education teacher Danyelle Rucker.

These new IEP team members did not attend the meetings on February 3 and March 3, 2025. None of the BEAM assessors attended the April 7, 2025 IEP team meeting.

Monrovia Unified still had not completed an inclusion assessment by the time of the April 7, 2025 IEP team meeting. At the April 7, 2025 IEP team meeting, Monrovia Unified offered the following services to be provided through February 3, 2026:

- Specialized academic instruction 1,100 minutes a week for middle school, and 1,140 minutes a week for high school, in a group setting for math, English, social studies, and science. Instruction would be delivered outside the regular classroom.
- 240 minutes a month of behavior intervention services by a board-certified behavior analyst for consultation and staff training.
- 2,020 minutes a week of intensive individual one-to-one aide support.
- 240 minutes a month of speech and language services in a group setting for 30 minutes, twice a week.
- 30 minutes a month of speech and language services for consultations with staff to generalize goals across settings.
- Occupational therapy services for 60 minutes a week; 30 minutes individually, 30 minutes in a group setting.

- 360 minutes a year of assistive technology services.
- 2,000 minutes a year of specialized vision services; 50 minutes per session for 44 sessions, through a nonpublic agency.
- Adapted physical education instruction in a group setting for 30 minutes, twice a week, for a total of 60 minutes a week.
- 30 minutes a week of individual counseling and guidance services.

The IEP did not offer extended school year services.

The February 3, 2025 IEP offered placement at a Monrovia Unified middle school for the remainer of the 2024-2025 school year, and a Monrovia Unified high school for the 2025-2026 school year. The IEP noted that Student would spend 65 percent of the school day outside the regular classroom to receive specialized academic instruction in English, math, social studies, and science. The specialized academic instruction classes had about 10 students. Student would be in the regular classroom and the general education setting the remaining 35 percent of the time. Monrovia Unified explained at the April 7, 2025 IEP team meeting that Student would be in a general education class for physical education and an elective in middle school and high school. Parents did not consent to the February 3, 2025 IEP offer.

ISSUE: DID THE FEBRUARY 3, 2025 IEP OFFER STUDENT A FAPE IN THE LEAST RESTRICTIVE ENVIRONMENT?

Monrovia Unified contends the February 3, 2025 IEP offered Student a FAPE in the least restrictive environment. They contend the IEP was not predetermined, accurately identified Student's present levels of academic and functional performance,

and offered clear, measurable goals to address Student's unique needs. Monrovia Unified further contends an inclusion assessment was not necessary.

In addition, Monrovia Unified contends the February 3, 2025 IEP's accommodations, behavior intervention plan, academic instruction and related services were appropriate and reasonably calculated to enable Student to make meaningful progress. Monrovia Unified contends the IEP team did not have enough information to conclude Student required extended school year services. Monrovia Unified further argues the placement, and the supports proposed to help Student transition from the home setting to the school setting, were appropriate.

Student contends the February 3, 2025 IEP failed to offer her a FAPE because Monrovia Unified did not assess Student for necessary supports to transition her from the home classroom to a comprehensive school campus. Student also contends the IEP failed to offer appropriate academic and behavior goals, extended school year services, and appropriate types and amount of behavior intervention support and supervision.

In addition, Student contends the February 3, 2025 IEP's behavior intervention plan was inappropriate for a school campus program. Furthermore, Student argues Monrovia Unified failed to discuss and consider a home-based program for Student which denied Parents the opportunity to meaningfully participate in the IEP process.

A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) Parents and school personnel

develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County Sch. Dist. RE-1* (2017) 580 U.S. 386, 402 [137 S.Ct. 988, 1000] (*Endrew F.*).) The IEP is the centerpiece of the IDEA's education delivery system for disabled children and consists of a detailed written statement that must be developed, reviewed, and revised for each child with a disability. (*Honig v. Doe* (1988) 484 U.S. 305, 311 [108 S.Ct. 592, 98 L.Ed.2d 686]; 20 U.S.C. §§ 1401(14), 1414(d)(1)(A); Ed. Code, §§ 56032, 56345.)

The IEP is a comprehensive statement of the educational needs of a child with a disability, and the specially designed instruction and related services to be employed to meet those needs. (*School Comm. of Town of Burlington, Mass. v. Department of Educ. of Mass.* (1985) 471 U.S. 359, 368 [105 S.Ct. 1996].) It is a written document for each child with exceptional needs that includes a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. (20 U.S.C. § 1414(d)(1)(A)(i)(I); 34 C.F.R. § 300.320(a)(1); Ed. Code, § 56345, subd. (a)(1).) Parents and school personnel develop an IEP for an eligible student based upon state

law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501.)

The IEP must include a statement of measurable annual goals. (20 U.S.C. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2); Ed. Code, § 56345, subd. (a)(2).) Measurable goals must include academic and functional goals, designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and meet each of the child's other educational needs that result from the child's disability. (*Ibid.*) Annual goals must be appropriately ambitious in light of the child's circumstances. (*Endrew F.*, *supra*, 580 U.S. at p. 402)

Additionally, the IEP must contain statements of how the child's goals will be measured and the special education and related services, based on peer-reviewed research to the extent practicable, that will be provided to the student. (20 U.S.C. § 1414(d)(1)(A)(i)(III), (IV); 34 C.F.R. § 300.320(a)(3), (4); Ed. Code, § 56345, subd. (a)(3), (4).) The IEP shall show a direct relationship between the present levels of performance, the goals and objectives, and the specific educational services to be provided. (Cal. Code Regs., tit. 5, § 3040.)

THE FEBRUARY 3, 2025 IEP'S OFFER OF GROUP SPECIALIZED ACADEMIC INSTRUCTION DELIVERED ON A COMPREHENSIVE CAMPUS WAS NOT APPROPRIATE

The February 3, 2025 IEP's offer of group instruction, both in the general education setting and the specialized academic instruction class, was not reasonably

calculated to enable Student to access and meaningfully benefit from instruction. The evidence established Student required one-to-one academic instruction because of her significant attention deficits, sensory needs, and extreme distractibility.

Monrovia Unified's IEP team members had limited knowledge of Student's unique behavioral needs, and the strategies, effort and consistency that were needed to successfully support her learning during the 2024-2025 school year. Monrovia Unified's IEP team members Osuna, Dr. Reyes, Hernandez, Overton, Ramirez-Morales, Leone, Manookian, Sheri Castro-Nowak, Neskovska, Reynoso, and Rucker each testified at hearing that the February 3, 2025 IEP's FAPE offer was appropriate. However, only Neskovska and Castro-Nowak had met Student. Neskovska assessed Student when Student was in kindergarten and fourth grade and provided four to six hours of assistive technology services a year to Student from 2017 through 2023. Castro-Nowak provided adapted physical education services to Student when Student was in kindergarten and first grade and assessed her in fourth grade. None of the other Monrovia Unified IEP team members had met Student or observed her in the home classroom.

In contrast, Maldonado, Britton, and Dr. Lee-Dick had extensive knowledge of Student's unique needs and the strategies and supports she needed to benefit academically and behaviorally. Britton taught Student for more than seven years. Dr. Lee-Dick counseled Student for more than seven years. Maldonado provided Student behavior services for more than two years. Accordingly, the opinions they shared with BEAM assessors and the IEP team were persuasive and given substantial weight.

Maldondo's and Dr. Lee-Dick's testimony were thoughtful and measured. Their bond with Student was evident in their demeanor, as they proudly recalled Student's accomplishments and progress. Accordingly, their testimony was persuasive and afforded greater weight than the testimony of Monrovia Unified's IEP team members.

At hearing, Maldonado estimated on average, Student could only access one hour and 45 minutes of academic instruction during a two and a half hour session because she was easily distracted, could not attend to lessons, and needed frequent breaks. Results from the September 30, 2024 multidisciplinary assessment report showed Student's inability to sustain attention as very elevated based on ratings completed by Britton and Parents. Britton observed significant difficulties in Student's inattention, with ratings in the clinically significant range.

The behavior intervention plan included in the February 3, 2025 IEP detailed the frequency and duration of Student's behaviors and hypothesized the reasons for her behaviors. At home, Student would frequently gaze into space. This occurred on average 5.6 times an hour, and her gazing would last up to 30 seconds. Student would also pick small particles or objects, real and imaginary, on her clothing or on objects, and would sometimes place them in her mouth. This behavior occurred on average 16 times an hour and would last up to three minutes each time. Anxiety, stress, and being overwhelmed were some of the triggers of her gazing and picking. She would also gaze or pick up small particles or objects when unfamiliar distractions were present in the environment.

Student had difficulty initiating tasks and would often disengage from an activity or not follow directions. She typically took 13 seconds to start an activity after sitting

and preparing to begin. These off-task behaviors averaged about 15 minutes every hour. Common causes for Student not initiating or remaining focused on a task, included being over or under stimulated, and having distractions in the environment.

BEAM assessors did not testify at hearing. However, the BEAM assessors observed Student's attention difficulties and distractibility during their assessments, and reported their observations in the September 30, 2024 multidisciplinary assessment report. During testing on August 30, 2024, Student was observed picking at the table, putting specks of items in her mouth requiring the examiner to prompt her not to put the specks in her mouth. The examiner had to redirect Student back to the assessments because Student was looking around the room, drawing on the table or herself, or picking at her clothing.

During an observation of a writing lesson at home, a BEAM assessor observed Student had lost focus by staring at a white board in front of her, staring at her own hands, and shuffling her foot back and forth. The behavior aide redirected Student back to the writing lesson. However, Student became distracted again after 30 seconds and began playing with her fingers. The behavior aide redirected Student again and explained to the assessor that Student became distracted by a fuzz on a white board.

During the same writing lesson, Student again became distracted 30 seconds after resuming the lesson. She stated there was a fuzz on her nose, and was distracted by her hands and fingers. She required redirection by the behavior specialist and Britton to return to the lesson.

On August 1, 2024, during an assessment of Student's speech and language skills, the assessor noted that Student was preoccupied and concerned about a fly in the

home classroom. The assessor reported Student exhibited difficulty attending until Student knew the fly had left the room. Student was also preoccupied with pictures on an easel and asked to see the back of the pictures or other pages that were unrelated to the assessment.

Britton reported to the assessors that Student's attention deficits and distractibility required constant prompting and attention from her and the behavior aide. At hearing, Maldonado explained the prompting strategy used by Britton and the behavior aide. Britton gave Student an instruction. Student either proceeded as instructed or did not respond. Britton gave Student 14 seconds to proceed as instructed. If Student did not start after 14 seconds, Britton asked Student if she heard Britton's instruction or if she needed help. If Student did not respond to Britton's question after 14 seconds, the behavior aide prompted Student to respond. If Student did not respond to the aide's prompt, the behavior aide and Britton would direct Student to another activity, such as movement breaks, to get her back on track.

Maldonado testified that on days that Student was regulated and responsive, the need for three or more prompts may occur six times an hour. On days Student was dysregulated or highly distracted, the need for three or more prompts could occur 20 times an hour.

Britton reported to the BEAM assessors that Student was easily distracted by changes in activities or movement from other people. Student would wander off to another area in the home classroom or retrieve materials not needed when she transitioned between activities. Britton opined even in the small, quiet setting at home with only the behavior aide and Britton present, Student was still easily distracted.

Student's attention challenges were also present outside the home. Dr. Lee-Dick reported to the BEAM assessors that Student would drift off during conversations. Dr. Lee-Dick explained Student would become distracted by her own thoughts or by something Student saw.

Dr. Lee-Dick testified that Student was easily distracted by noise and movement, and Student perseverated on ideas or items for considerable periods. Dr. Lee-Dick also reported that Student was impulsive and required constant supervision. Student struggled to transition between activities during counseling, typically requiring five to eight prompts by Dr. Lee-Dick, and considerable time before Student could transition.

Maldonado shared a similar opinion about Student's distractibility. Student was easily distracted by noise and movement, and could become fixated with the distraction. Maldonado opined at hearing that Student was the most distractable child she had worked with. Maldonado also explained at hearing that Student was easily distracted by new people in the room. During an observation by a BEAM assessor, Student spent the time speaking to the assessor, instead of accomplishing any academic task.

To support Student at home, Britton and Maldonado established clear consistent routines to help Student understand the sequence of tasks to support transitions between activities. Movement breaks were embedded in the routine, which were 10 minutes between activities.

The intense level of behavior support and individualized academic instruction, along with the home classroom setting enabled Student to make meaningful behavioral and academic progress. Britton reported to the assessors that Student's pace of work and learning had increased. She needed less prompts and her attention span improved.

Student also met all her June 2024 academic goals. At hearing, Maldonado and Dr. Lee-Dick opined Student enjoyed learning, and Student was proud of herself for making positive strides academically.

Monrovia Unified failed to establish the February 3, 2025 IEP's offer of group specialized academic instruction delivered on a comprehensive campus was appropriate. The evidence was clear that Student did not have the ability to attend and remain focused in a classroom with additional students. Student's distractibility was severe, and her attention extremely limited, which significantly impeded her learning. Her behaviors were already challenging in the small home classroom setting with limited distractions, with individualized support by Britton and the behavior aide. The evidence demonstrated these challenges would have presented a more significant challenge for teachers with other students in either a regular classroom or a small group specialized academic instruction class, even with the support of a one-to-one aide for Student.

Student required constant attention, requiring a teacher and a behavior aide to support her throughout her lesson. Monrovia Unified failed to offer any persuasive evidence to demonstrate the February 3, 2025 IEP offered the necessary level of individual aide support and instruction to support Student in a classroom with other students. Accordingly, a preponderance of the evidence established the February 3, 2025 IEP's offer of group specialized academic instruction was not reasonably calculated to enable Student to access and meaningfully benefit from her education.

THE FEBRUARY 3, 2025 IEP FAILED TO OFFER AN APPROPRIATE PLACEMENT

School districts are required to provide each special education student with a program in the least restrictive environment, with removal from the regular education environment occurring only when the nature or severity of the student's disabilities is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2); Ed. Code, § 56040.1.) The IDEA also requires, to the maximum extent appropriate, that a child with a disability must be educated with children who are not disabled. (*Ibid.*) If a school district determines that a child cannot be educated in a general education environment, then the least restrictive environment analysis requires determining whether the child has been mainstreamed to the maximum extent that is appropriate in light of the continuum of program options. (*Daniel R.R. v. State Board of Ed.* (5th Cir. 1989) 874 F.2d 1036, 1050.)

In California, a specific educational placement is defined as the unique combination of facilities, personnel, location or equipment necessary to provide instructional services to a special education student as specified in the student's IEP. (Cal. Code Regs., tit. 5, § 3042, subd. (a).) The continuum of program options includes but is not limited to regular education; resource specialist programs; designated instruction and services; and special classes. (Ed. Code, § 56361.) However, a school district is not required to offer a program preferred by a student or parent. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.)

The evidence established Student could not benefit academically in the general education classroom because Student was significantly behind her peers academically when the 2024-2025 school year began. Assessments showed her general intellectual ability was well below average. Her fluid reasoning skills and short-term working memory were also well below average. Her comprehension and knowledge were below average.

Student's auditory processing skills were also poor. Her phonological awareness was below average. Her phonological memory skills were low average. She performed well below average in her ability to quickly and correctly scan visual information.

Student's intellectual functioning was further assessed using a nonverbal problem-solving, reasoning, and abstract thinking skills measure, which minimized Student's reliance on oral language skills. Student performed in the poor range in the ability to problem solve and reason. Her full-scale score on the measure ranked in the third percentile compared to peers her age, also in the poor range.

Academic assessments showed Student's skills were very low compared to same-age peers. Her ability to recognize letters and words, and to comprehend her reading was low. Her reading fluency, math, and writing skills were very low. Her oral language skills were also low.

At the time of 2025 IEP team meetings, Student struggled to read three syllable words accurately, and words that had two vowels combined such as shout or spoil. Student could not consistently spell two syllable words. Grade level content had to be read to Student because of her poor reading skills. She required support to demonstrate comprehension of fifth grade level passages. Student also needed

prompting to edit her handwritten sentences. In math, Student could add and subtract in 10s, but could not consistently do so in fives.

Student's overall academic skills were poor. Therefore, she required highly structured, intensive academic instruction at her level of understanding outside the general education classroom to receive an educational benefit.

The evidence further established the February 3, 2025 IEP's placement offer for specialized academic instruction in a separate classroom on a comprehensive campus was also not appropriate for Student. Though the February 3, 2025 IEP offered mainstreaming opportunities for Student during physical education and elective classes, Student could not meaningfully access and benefit from her education in an academic small group setting on a comprehensive school campus. Student's attention deficits, sensory challenges, and behavioral needs were significant, and required one-to-one instruction in a quiet, small setting with the support of a one-to-one aide. As a result, a small classroom setting with other students was inappropriate for Student.

Student required individualized instruction, with constant support from a teacher and a behavior aide to enable her to learn. A classroom with other students would have been too challenging for Student to learn in because of her significant attention deficits, distractibility, and sensory needs. Dr. Lee-Dick opined Student learned best in a small environment where Student could better focus and communicate. Therefore, the February 3, 2025 IEP's offer of specialized academic group instruction in a small classroom was not reasonably calculated to enable Student to access and benefit from her education. Accordingly, Monrovia Unified failed to prove the February 3, 2025 IEP offered Student an appropriate placement.

THE FEBRUARY 3, 2025 IEP FAILED TO OFFER APPROPRIATE SUPPORTS TO HELP STUDENT TRANSITION FROM THE HOME CLASSROOM TO A SCHOOL CAMPUS

The evidence established the February 3, 2025 IEP's offer of supports to help Student transition to a school campus was wholly inadequate. To support Student's transition to middle school, the IEP offered home visits, school visits, and a shorter school day for her first 30 days of school. At hearing, Dr. Reyes explained that Student would be allowed to attend only her specialized academic instruction classes for the first 30 days. Monrovia Unified's witnesses also testified about other supports such as an aide and counseling services to help Student transition to middle school. Monrovia Unified offered similar supports for Student to transition to high school, just four months after the April 7, 2025 IEP team meeting.

However, the evidence established that any successful transition from the home classroom to a school classroom required a prolonged, methodical plan. Transitions between places and people, and changes to routines and schedule were challenging for Student. New people distracted Student, and could be a target of Student's aggression if she were dysregulated. Parents reported to BEAM assessors that Student was impulsive, and could be unsafe and aggressive.

Student required substantial time to become accustomed to changes. For example, to successfully transition to a new behavior aide at home, the current behavior aide and the new behavior aide worked together to support Student for more than three weeks before the new aide could successfully support Student without the need for other aide. Therefore, a successful transition from the home to the school classroom

on a comprehensive campus would require a plan to allow Student to slowly establish new relationships with teachers and staff.

A successful plan would also allow Student to slowly become familiar with a new school setting, and to reestablish clear and consistent routines. At hearing, Maldonado described a successful plan would involve small, incremental steps to introduce Student back into school on a comprehensive campus. For example, Student would begin socializing on campus for 30 minutes, then introducing teachers to her, followed by short academic tasks.

The February 3, 2025 IEP transition support for middle school and high school was inappropriate because it did not address Student's need for slow introduction to new people, places, and routines. At hearing, Dr. Lee-Dick credibly opined Student would be overwhelmed on a school campus, expending significant effort to regulate herself, resulting in frustration and inability to learn. Dr. Lee-Dick opined Student would regress because Student would be too distracted, unable to focus on learning on a comprehensive school campus.

The evidence established, more likely than not, Student's transition to middle school and high school, in the absence of a prolonged, methodical plan for a slow and measured transition, would be detrimental to Student. Accordingly, Monrovia Unified failed to prove the February 3, 2025 IEP offered Student appropriate supports to enable a successful transition from the home classroom to a comprehensive middle school and high school campus.

THE FEBRUARY 3, 2025 IEP FAILED TO OFFER AN APPROPRIATE BEHAVIOR INTERVENTION PLAN TO SUPPORT STUDENT OUTSIDE THE HOME CLASSROOM

Whenever a child's behavior impedes his learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. (20 U.S.C. § 1414(d)(3)(B); 34 C.F.R. § 300.324(a)(2)(i); Ed. Code, § 56341.1, subd. (b)(1).) An IEP that fails to appropriately address behaviors that impede a child's learning denies the child a FAPE. (*Neosho R-V School Dist. v. Clark* (8th Cir. 2003) 315 F.3d 1022, 1028-1029; *County of San Diego v. California Special Educ. Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467-68; United States Department of Education Office of Special Education and Rehabilitative Services *Questions and Answers on Discipline Procedures*, June 1, 2009, Q. E-2 [if the IEP team finds that a behavior intervention plan is appropriate for a child with a disability whose behaviors impede the child's learning, then the child's IEP must include a behavior intervention plan].)

The behavior intervention plan proposed by Maldonado and adopted by the IEP team was not designed to be implemented outside of the home classroom. At hearing, Maldonado explained she developed the behavior intervention plan for Student based on her education in the home classroom and was not informed Monrovia Unified considered transitioning Student to a comprehensive school campus. Monrovia Unified asked board-certified behavior analyst Felipe Campos to propose behavior goals, a behavior intervention plan and services for the IEP team to consider. However, Campos had never met Student, or observed Student in the home classroom or educational

setting. Campos also did not attend the February 3 and March 3, 2025 IEP team meetings.

Campos and Maldonado met by video before the April 7, 2025 IEP team meeting. Maldonado shared Student's behavioral data and discussed behavior goals and a behavior intervention plan with Campos. Campos told Maldonado that he would defer to Maldonado about proposed behavior goals and a behavior intervention plan because he did not know Student, a concern he shared with Monrovia Unified.

Maldonado and Campos discussed Student's behaviors in the home classroom and did not discuss Student's behaviors in a comprehensive school campus. Following the video meeting, Maldonado emailed Campos her proposed goals and behavior intervention plan for the home classroom.

Maldonado attended all three IEP team meetings, but left the April 7, 2025 meeting about an hour before it ended. She was not present when the IEP team discussed or offered the placement on a comprehensive campus to Student. Maldonado testified that Monrovia Unified's IEP team members did not question her or Campos about the proposed behavior intervention plan while both were present at the April 7, 2025 IEP team.

At hearing, Maldondo explained she expected an IEP offer to continue Student's home school program. Maldonado opined at hearing that had she known Monrovia Unified would offer Student placement on a school campus, she would have proposed a different behavior intervention plan. She opined the behavior intervention plan she developed and incorporated by the IEP team into the February 3, 2025 IEP, was

designed to support Student's behaviors at home, not in a classroom with other students on a comprehensive school campus.

Maldonado explained at hearing that the behavior intervention plan did not account for Student's past behaviors, such as aggression, that were triggered when she transitioned between activities, or encountered new people on a comprehensive school campus. At hearing, Maldonado described Student's reaction to meeting new people based on her personal experience with Student. In 2023, Maldonado had to act as Student's behavior aide because the behavior aide was unexpectedly unavailable. Maldonado had not met Student before. On that day, Student was already dysregulated when Maldonado arrived to the home classroom. During the session, she leaned close to Student to prompt her. Student grabbed her hair, scratched and hit Maldonado.

Monrovia Unified argues Maldonado's opinions at hearing about the inappropriateness of the February 3, 2025 IEP's behavior intervention plan for a comprehensive school setting should be given little weight because the opinion was provided after the IEP team meetings and intended to sabotage Monrovia Unified's IEP offer. Monrovia Unified also argues Maldonado's testimony was suspicious because she supposedly had extensive knowledge of an IEP team's responsibilities, but improperly proposed a behavior intervention plan that was limited to the home setting. Monrovia Unified's argument was not persuasive.

Monrovia Unified's reliance on Maldonado proposed behavior intervention plan did not relieve Monrovia Unified of its obligation to offer Student an appropriate behavior intervention plan to accompany its offer to place Student on a comprehensive school campus. Campos testified the April 7, 2025 IEP team "briefly" discussed the

behavior intervention plan before the IEP team adopted the plan as proposed. However, neither Campos, nor any of the other Monrovia Unified IEP team members asked Maldonado, the only behavior analyst who was familiar with Student's behaviors in an educational setting, if the behavior intervention plan could be successfully implemented in the school setting. Further, Maldonado had no reason to believe the behavior intervention plan required changes because Monrovia Unified's IEP team members failed to make her aware that Monrovia Unified was considering offering Student placement on a comprehensive school campus, and to verify with Maldonado that the behavior intervention plan was appropriate for that setting.

Monrovia Unified failed to offer any persuasive testimony or documentary evidence that the behavior intervention plan offered in the February 3, 2025 IEP was reasonably calculated to support Student's behavioral needs in a classroom with other students on a comprehensive school campus. Accordingly, Monrovia Unified failed to prove the February 3, 2025 IEP offered an appropriate behavior intervention plan to support Student in the offered placement on a comprehensive school campus.

THE FEBRUARY 3, 2025 IEP FAILED TO OFFER EXTENDED SCHOOL YEAR SERVICES

Extended school year services shall be provided for each individual with exceptional needs who requires special education and related services in excess of the regular academic year. (Cal. Code Regs., tit. 5, § 3043.) For a student to qualify for extended school year services, the student must have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the student's educational programming may cause regression, when coupled with limited

recoupment capacity, rendering it impossible or unlikely that the student will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition. (*Ibid.*)

Student required extended school year services for the 2025 extended school year to retain and recoup lessons learned. Monrovia Unified's contention that the IEP team did not have enough information about Student's regression and recoupment capacity to offer extended school year services in the February 3, 2025 IEP was not persuasive.

Britton reported to BEAM assessors that Student's ability to accomplish more academic tasks within a two and a half hour session had improved, estimating about eight academic tasks each session. Britton explained that the improvement was significant as it allowed Britton and Student to successfully review past materials more frequently, which Britton opined was a "key activity for long term memory."

Maldonado testified that Student needed more than two weeks to recoup skills after a break from instruction, when Britton took leave for three weeks in early 2025, prior to the completion of the February 3, 2025 IEP. Student would also lose skills after a four-day weekend. For example, Student could read certain sight words on a Thursday, but forget how to read the words the following Tuesday. Student would also rely less on a planner to follow her daily schedules, or conduct a self-monitoring checklist for maladaptive behaviors and task initiation, engagement, and completion. Maldonado opined that Student required consistency in instruction and in routines, to maintain her learning pace.

A preponderance of the evidence demonstrated, based on the information available to Monrovia Unified during the development of the February 3, 2025 IEP, that Student required extended school year services because an extended interruption to her programing over the two months of summer break would likely result in skills regression. The evidence also established that without consistency in her instruction and routines, Student's recoupment capacity was limited, and Student would unlikely attain self-sufficiency and independence. Accordingly, Monrovia Unified failed to prove Student did not need extended school year services.

In sum, a preponderance of the evidence established the February 3, 2025 IEP failed to offer appropriate academic instruction, placement, and supports to enable Student to successfully transition from the home classroom to a school campus. The evidence also established the February 3, 2025 IEP failed to offer an appropriate behavior intervention plan and extended school year services. Therefore, Monrovia Unified failed to prove the February 3, 2025 IEP offered Student a FAPE in the least restrictive environment.

Further analysis of alleged violations from Monrovia Unified's development of, and offers made in, the February 3, 2025 IEP, including assessment timeliness, goals, related services, and parental participation is unnecessary. The February 3, 2025 IEP failed to offer Student a FAPE for the reasons discussed in this Decision and Monrovia Unified is barred from implementing the IEP without parental consent.

CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

ISSUE:

The February 3, 2025 IEP did not offer Student a FAPE in the least restrictive environment.

Student prevailed on the sole issue.

ORDER

The February 3, 2025 IEP failed to offer Student a FAPE in the least restrictive environment. Monrovia Unified may not implement the February 3, 2025 IEP without parental consent.

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.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings