

# FORMAL REBUTTAL

**to the Elk Grove Unified School District**

**Prior Written Notice (PWN)**

**Dated November 14, 2025**

**Submitted by: Yang Xiong & Mary Xiong**

**Date: November 20, 2025**

---

## INTRODUCTION

Dear Mrs. Rigali,

We respectfully submit this rebuttal to the District's Prior Written Notice (PWN) dated November 14, 2025, received electronically on November 17, 2025. As Kaleb's parents, we are committed to collaborative partnership with the District and value your willingness—as Director of Special Education—to meet with us directly on November 18, 2025 to hear our concerns. We appreciate that engagement and believe it reflects the District's intention to resolve matters constructively.

Unfortunately, the PWN does not accurately reflect the events documented between October 14 and November 18, 2025, nor does it meet IDEA's requirements under 34 C.F.R. § 300.503 and California Education Code. Over several weeks, significant changes occurred in how Kaleb's IEP-mandated 1:1 paraeducator services were delivered. These changes were implemented without the required parent participation, IEP team decision-making, or prior written notice.

We acknowledge and appreciate your candid acknowledgments during the 11/18 meeting (Exhibit Z) regarding communication breakdowns, insufficient oversight, and the need for the District to investigate service-delivery specifics. Your willingness to recognize these areas reinforces why this rebuttal is necessary and why corrective action is essential.

Our intention is not adversarial. Our goal is to ensure that Kaleb receives the continuous, blindness-specific, autism-informed, safety-driven support his IEP requires—support that also accounts for his global developmental delay and language disorder—and that future decisions rely on accurate information and transparent collaboration. This rebuttal corrects the PWN, section by section, supported by Exhibits A through Z.

We also must note a significant inconsistency in the District's responsiveness. On November 18, when staff reported concerns about possible recording during drop-off, you immediately contacted us that same morning. In contrast, multiple safety concerns we raised—beginning October 14—received delayed responses and no immediate action. This difference in response time was significant enough that we

expressly asked, in writing, for “the same speed of response to our request to meet today.” The November 18 text exchange highlighted that such immediate administrative action is indeed feasible, underscoring the communication imbalance acknowledged during our meeting and reinforcing the need for clearer, timely, and equitable communication protocols.

---

## **SECTION 0 — UNLAWFUL MODIFICATION OF PARAEDUCATOR SERVICES**

*(Exhibits A–Z)*

### **0.1 Summary of Legal Violations**

Before the paraeducator reassignment on October 17, 2025 service-delivery changes were implemented that directly altered paraeducator responsibilities and proximity. These included reduced para proximity, delayed responsiveness, “waiting moments,” and redirection of the para to support the classroom rather than Kaleb.

These actions constitute changes to services requiring:

- meaningful parent participation (34 C.F.R. § 300.501),
- IEP team discussion (Cal. Ed. Code § 56341.1),
- Prior Written Notice (34 C.F.R. § 300.503).

None occurred.

---

### **0.2 Early Evidence of Unauthorized Changes — Exhibits B & E**

Emails from Mrs. King dated October 14, 2025 and October 17, 2025 confirm that she initiated a new model of paraeducator usage—one not found anywhere in Kaleb’s IEP or his Adaptation Plan.

Kaleb’s IEP (page 41) explicitly requires “one-on-one classroom support from a school district staff who is knowledgeable in working with students who are legally blind with no light perception,” further stating

that “Kaleb could also potentially hurt himself by mouthing objects if he is not provided with continuous adult supervision.” This language makes unmistakably clear that the paraeducator’s role is dedicated, continuous, and exclusively assigned to Kaleb throughout the entire school day to ensure his access, safety, and participation. The paraeducator’s duties are not interchangeable with general classroom responsibilities and cannot be shared or redistributed without IEP team action.

The Adaptation Plan reinforces this requirement, stating that “direct adult support must be available at all times to assist with transitions, environmental navigation, and task participation due to total blindness and associated developmental delays.”

Despite these clear mandates, Mrs. King introduced—for the first time—a new instructional “model” that was never discussed, proposed, or agreed upon by the IEP team. She states:

“As part of promoting Kaleb’s growth, we are encouraging him to engage more directly with teacher-led instruction. The paraeducator’s role is to support instruction, not replace it. This means that at times I will work with Kaleb 1:1 while Ms. Motoko supports the class, and at other times she will provide his direct support.”

She further asserts:

“At times... waiting a few moments before his para steps in...”

**These statements confirm that Mrs. King unilaterally altered how Kaleb’s IEP-mandated 1:1 paraeducator services were delivered, reframing the reduction of direct support as “instructional adjustments” or “fostering independence.” Under 34 C.F.R. § 300.324(a)(2) and California Education Code §§ 56341.1(a) and 56380, any modification to the delivery, consistency, or availability of a required service—especially one tied to safety and access—must be brought to the IEP team for discussion and approval before implementation. That did not occur. Because these communications and changes occurred before the paraeducator reassignment on October 17, it is clear that the root issue was not a staffing change but an unauthorized instructional change made outside the IEP team process.**

---

## **0.3 Our First Objection — Exhibit F**

On October 20, 2025, we objected to these changes and requested the matter be brought to the IEP team. No PWN was issued.

---

## **0.4 Legal Conclusion**

Exhibits A–F—and the unreported injury documented in Exhibit X and the fence licking incident documented in Exhibit Z—demonstrate a pattern of unsafe, unilateral modifications to Kaleb’s services. Exhibit Z further corroborates these concerns. During our meeting, you and Coordinator Wilson acknowledged that the District must:

- verify how para support was being provided,
- examine para positioning during safety incidents,
- determine whether the teacher’s reduced-proximity model was appropriate,
- clarify whether the para’s duties aligned with the IEP.

Your acknowledgment of the need for investigation confirms that these changes were not part of any approved IEP team decision.

---

## **SECTION 1 — REMOVAL OF MS. MOTOKO WELSH**

### **District’s Position (Summary)**

The District states staffing changes do not require parental consent.

### **Our Rebuttal**

We do not challenge the District’s authority over assignments. Our concern is the significant change in support quality, beginning prior to the staffing change and worsening after it.

After the reassignment:

- the new para frequently arrived after Kaleb,
- she lacked blindness-specific training,
- she did not maintain appropriate proximity,
- supervision gaps increased.

During the November 18, 2025 meeting (Exhibit Z), you and Mrs. Wilson acknowledged needing to confirm:

- whether the new para was trained for blindness,
- whether training was ever provided by the VI department.

This uncertainty contradicts the PWN's assertion that staffing remained qualified.

---

## **SECTION 2 — STAFFING AND QUALIFICATIONS**

### **District's Position (Summary)**

The District asserts staffing decisions are internal personnel matters and that assigned staff are qualified to implement the IEP.

### **Our Rebuttal**

We did not request confidential personnel records. We requested information essential to IEP implementation, including:

- whether the assigned para had training relevant to Kaleb's disability profile—including total blindness, autism, global developmental delay, and language disorder;
- whether para coverage was consistent;
- whether the para's responsibilities were aligned with the IEP and Adaptation Plan.

Exhibit Z confirms that the District cannot verify whether the newly assigned para has received blindness-specific training and other training related to Kaleb's additional disabilities, namely autism, global developmental delay, and language disorder.. You acknowledged needing to consult Chris Peterson to determine whether training occurred. Exhibit Z further confirms the District lacked key information at the time of assignment—including whether the para had VI training, safety training, or familiarity with Kaleb's sensory-seeking risks—undermining the PWN's assertion that staffing remained qualified.

---

## **SECTION 3 — CONSISTENCY OF 1:1 COVERAGE**

### **District's Position (Summary)**

Kaleb's paraeducator support was consistently provided, with no significant lapses.

### **Our Rebuttal**

Documented evidence shows multiple significant supervision failures:

- the para arrived late on several mornings, leaving Kaleb without support (Exhibit W);
- no para attended the October 21 field trip, requiring us to serve as his aide (Exhibit H);
- Kaleb sustained an unreported lip injury on October 27 (Exhibit X);
- Kaleb attempted to lick a metal fence on November 18 while the para stood several feet away (Exhibit Z);
- morning transitions showed inconsistent or absent coverage (Exhibit W).

These are not minor gaps. For a blind, autistic, nonverbal child with sensory-seeking behaviors and no ability to report distress, such lapses pose immediate safety risks.

Exhibit Z reflects your acknowledgment that para proximity, teacher-directed proximity practices, and supervision routines require review through observation and follow-up to ensure alignment with Kaleb's IEP and safety needs.

Exhibit R documents that Kaleb has begun protesting going to school, a notable behavioral and emotional regression corresponding with the period of reduced para support and supervision inconsistencies. This resistance reflects Kaleb's experience of unpredictability and distress during transitions and further demonstrates the impact of these service changes.

---

## **SECTION 4 — VERIFICATION OF IEP IMPLEMENTATION**

### **District’s Position (Summary)**

The District asserts all IEP services were provided “as written.”

### **Our Rebuttal**

The District has not produced documentation that would verify accurate implementation, including para coverage logs, blindness-specific training records, or supervision documentation during transitions. Supervision practices were inconsistent, as demonstrated by safety lapses documented in Exhibits H, W, X, and Z.

Exhibit Z confirms that District leadership recognized the need to observe classroom practices and consult site staff and the VI teacher to verify how para support is being provided, whether proper proximity is being maintained, whether training has occurred, and whether the teacher’s model aligns with Kaleb’s IEP and safety needs. These acknowledgments confirm that the District could not have conclusively determined that the IEP was implemented “as written” at the time the PWN was issued.

---

## **SECTION 5 — PROCEDURAL SAFEGUARDS AGAINST UNILATERAL CHANGES**

### **District’s Position (Summary)**

No procedural violations occurred.

### **Our Rebuttal**

Exhibit Z reflects that parents raised concerns about reduced proximity, “waiting” before intervention, and shifting para focus toward classroom support, and that District leadership agreed these concerns require clarification, observation, and IEP-team review to ensure alignment with the IEP.

These changes occurred without parent participation, an IEP team meeting, or Prior Written Notice. Therefore, procedural violations occurred under 34 C.F.R. §§ 300.501, 300.503, and California Education Code § 56341.1.

Additionally, IDEA requires that Prior Written Notice be issued within a reasonable time after a parent request. We first raised concerns and requested corrective action on October 20, and again on October 21, 24, and 27. The District did not issue a PWN until November 17—nearly four weeks later. Courts have held that “reasonable time” is measured in days, not weeks. This delay prevented meaningful participation and violated 34 C.F.R. § 300.503.

Exhibit Z reflects your acknowledgment that parent concerns were not prioritized on the IEP agenda. Our request to place parent concerns first—given the urgency and the fact that we initiated the meeting—was declined by Mrs. King. This impeded meaningful participation under 34 C.F.R. § 300.322.

The morning-of text messages on November 18 also demonstrate this procedural imbalance. In our message postponing the IEP meeting, we noted that Mrs. King had denied our request to present our concerns first on the agenda of a meeting we had requested specifically for those concerns. This refusal materially limited our ability to participate meaningfully, and contributed to our decision to postpone the meeting after receiving the PWN less than 24 hours before. The fact that this denial of agenda priority was communicated directly to you the morning of the meeting further supports that these procedural concerns were known to the District prior to the 11/18 discussion.

After postponement, the proposed rescheduling to January 2026—nearly three months after our initial request—further impeded our procedural rights and failed to address urgent safety concerns.

---

## **SECTION 6 — INFORMATION RELIED UPON**

### **District’s Position (Summary)**

The PWN relied on school records, staff input, and internal data.

### **Our Rebuttal**

Exhibit Z confirms that key service-delivery questions required verification through observation and follow-up, including whether the para received blindness-specific training, how para proximity is being maintained during safety-sensitive routines, and whether supervision aligns with the IEP. Without verified implementation information, the District could not have relied on complete and accurate data when issuing the PWN.



Because the District did not maintain or produce para coverage logs, training records, supervision documentation, or any objective record of Kaleb’s daily support, the PWN’s conclusions were not supported by complete or verifiable information as required under 34 C.F.R. § 300.503(b)(3).

---

## **SECTION 7 — OTHER OPTIONS CONSIDERED**

### **District’s Position (Summary)**

The PWN states the District considered “not responding.”

### **Our Rebuttal**

“Not responding” is not allowable under IDEA or California Education Code.

Exhibit Z confirms that several reasonable options were not considered at the time key decisions were made, including implementing communication logs, prioritizing parent concerns on meeting agendas, initiating structured collaboration time, and performing immediate site observations to assess para placement and safety practices. These options are only now being considered after significant safety incidents.

The November 18 text exchange underscores that swift administrative action is feasible. Parents explicitly requested to meet with you the same day at the original IEP time, stating they would greatly appreciate the same speed of response that school-site staff received. Your prompt agreement to meet at noon shows that timely collaboration was possible earlier but was not offered until parents postponed the IEP and escalated concerns.

---

## **SECTION 8 — OTHER FACTORS**

### **District’s Position (Summary)**

All relevant factors were considered.

### **Our Rebuttal**

Kaleb’s disabilities—total blindness, autism, global developmental delay, sensory-seeking behaviors, and inability to communicate distress—require continuous, immediate, proximity-based adult support.

Exhibit Z documented that you acknowledged the validity of our safety concerns, the emotional impact this has had on our family, the need to rebuild trust, the need to re-evaluate para proximity, communication systems, and teacher practices, and the need for the District to determine what is actually happening in the classroom. These acknowledgments directly contradict the PWN’s claim that all relevant factors were considered.

Exhibit R further documents the emotional and behavioral impact: Kaleb has begun protesting going to school, a behavior not present before these service changes. This regression indicates that he no longer feels safe or supported in his current school environment.

---

## WHY CORRECTIVE ACTION MUST OCCUR NOW — EVEN BEFORE AN IEP MEETING

We recognize that the District may assert that the corrective actions we request cannot be implemented without first convening an IEP team meeting. However, neither IDEA nor California Education Code permit delaying corrective action when:

- the IEP is not being implemented as written,
- the District has already acknowledged gaps in implementation (Exhibit Z),
- a child’s safety is at risk, or
- unilateral changes were made outside the IEP process.

Under **34 C.F.R. § 300.323(c)(2)**, a public agency **must ensure** that all services in the IEP are provided **as soon as possible**. When the District acknowledges that implementation fidelity, training, and proximity practices remain unverified (Exhibit Z), it has a legal duty to immediately restore the IEP’s written service model—not wait weeks or months for a meeting.

Further, **California Education Code § 56346(f)** requires the District to **implement the last agreed-upon IEP** when any part of implementation is disputed. The last agreed-upon IEP requires **continuous 1:1 paraeducator support with VI-informed proximity**, which must continue immediately—even while scheduling a future meeting.

Most critically, corrective action here is **restorative**, not additive. We are not requesting new services. We are requesting that the District immediately reinstate the IEP services that were improperly reduced or altered without authorization.

Courts have held that districts cannot “wait for a future meeting” when a child’s safety or IEP implementation is compromised. Federal guidance affirms that LEAs must intervene promptly when there is:

- a denial of FAPE,
- unauthorized reduction of services, or
- immediate risk to a student’s safety.

The service changes acknowledged in Exhibit Z, combined with documented safety incidents (Exhibits H, W, X) and Kaleb’s emotional regression (Exhibit R), require immediate correction. IDEA places student safety and IEP implementation fidelity above procedural scheduling constraints.

Therefore, the District must take immediate, interim corrective action while the IEP team schedules its next meeting.

---

## FINAL STATEMENT & REQUIRED ACTION

We appreciate your direct engagement on November 18, 2025 and your acknowledgment of areas where communication and oversight require improvement. However, the PWN dated November 14, 2025 does not accurately reflect events or comply with IDEA’s procedural or substantive requirements.

The documented safety incidents (Exhibits H, W, X), the regression documented in Exhibit R, and the acknowledgments made during our meeting (Exhibit Z) demonstrate that Kaleb’s IEP was not implemented as written and that his safety was compromised.

We respectfully request the following corrective actions, consistent with IDEA and California Education Code obligations:

---

## **1. Immediate full restoration of Kaleb's continuous, blindness-specific 1:1 paraeducator support exactly as written in his IEP.**

### **Why this is necessary:**

- Kaleb sustained an unreported injury (Exhibit X).
- The fence-licking incident revealed delayed para responsiveness (Exhibit Z).
- The para arrived late on multiple days (Exhibit W).
- Kaleb was without para support during the field trip (Exhibit H).
- Reduced-proximity practices were implemented without authorization (Exhibits B, E; confirmed in Exhibit Z).
- Training of the new para has not been confirmed (Exhibit Z).

These conditions represent immediate safety risks and justify urgent correction.

---

## **2. If the District cannot guarantee safe, consistent implementation of Kaleb's IEP, it must identify and offer a more appropriate placement capable of meeting his intensive supervision needs.**

### **Why this is necessary:**

- Multiple safety failures demonstrate systemic issues.
- Our trust as parents has been severely impacted (Exhibit Z).
- The District acknowledged gaps in monitoring and service fidelity.
- Teacher practices may not align with Kaleb's needs (Exhibits B, E & Z).
- We have reached a point of questioning whether Earhart is currently safe for Kaleb.

This aligns with placement obligations under 34 C.F.R. § 300.116.

---

### **3. Immediate adoption of a structured communication and oversight plan to restore transparency, ensure collaboration, and prevent further incidents.**

**Why this is necessary:**

- Communication breakdowns were acknowledged during Exhibit Z.
- Critical safety and service delivery information was not communicated.
- Parent concerns were not appropriately prioritized on the IEP agenda.
- We have experienced significant daily stress due to lack of information.

A structured system is essential to rebuilding trust and safeguarding Kaleb.

---

## **CLOSING**

We respectfully submit this rebuttal with the belief that, under your leadership, the District is capable of resolving these issues constructively and lawfully. We remain committed to working collaboratively, but collaboration requires transparency, accountability, and adherence to IDEA's requirements.

Kaleb's safety, dignity, and access to education remain our highest priorities.

Sincerely,

The image shows two handwritten signatures in blue ink. The first signature is 'Yang Xiong' and the second is 'Mary Xiong'. They are written in a cursive, flowing style.

**Yang Xiong & Mary Xiong**

## ATTACHMENTS — EXHIBIT LIST (A–Z)

- Exhibit A** – 10/14/2025 – Clarification on Support Plan for Kaleb (Parent Email)  
**Exhibit B** – 10/14/2025 – Clarification on Support Plan for Kaleb (Mrs. King Response)  
**Exhibit C** – 10/15/2025 – Clarification on Support Plan for Kaleb (Parent Reply)  
**Exhibit D** – 10/16/2025 – Clarification on Support Plan for Kaleb (Parent Follow-Up)  
**Exhibit E** – 10/17/2025 – Clarification on Support Plan for Kaleb (Mrs. King Reply)  
**Exhibit F** – 10/20/2025 – Clarification on Support Plan for Kaleb (Parent Reply)
- Exhibit G** – 10/20/2025 – Staffing – Notification of Para Change (Wallner)  
**Exhibit H** – 10/21/2025 – Text Messages with Chris Peterson  
**Exhibit I** – 10/21/2025 – Staffing – Parent Reply and Request for IEP  
**Exhibit J** – 10/22/2025 – Parent Public Comment Disclosure  
**Exhibit K** – 10/23/2025 – Staffing – Wallner Reply  
**Exhibit L** – 10/23/2025 – Staffing – Parent Reply
- Exhibit M** – 10/23/2025 – Staffing – Wallner Follow-Up  
**Exhibit N** – 10/24/2025 – Parent Request for Written Response (to Wallner)  
**Exhibit O** – 10/27/2025 – Administrative Resolution Request – 1:1 Paraeducator Services (to Rigali)  
**Exhibit P** – 10/30/2025 – Administrative Resolution Request – Rigali Reply  
**Exhibit Q** – 10/30/2025 – Administrative Resolution Request – Parent Follow-Up  
**Exhibit R** – 11/12/2025 – Administrative Resolution Request – Parent Follow-Up
- Exhibit S** – 11/7–11/17/2025 – Update Regarding Upcoming IEP Meeting / Request to Present First  
**Exhibit T** – 11/17/2025 – Email: IEP Agenda, PWN, and Attachments  
**Exhibit U** – 11/17/2025 – Parent Request to Postpone IEP  
**Exhibit V** – 11/18/2025 – King Response Re: Postponement  
**Exhibit W** – Morning Log (October 17–27, 2025)  
**Exhibit X** – Lip Injury Incident (October 27, 2025)  
**Exhibit Y** – Summary of October 29, 2025 Phone Call Regarding Paraeducator Assignment  
**Exhibit Z** – Summary of November 18, 2025 Meeting with Director Rigali and Coordinator Wilson