

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Seattle School District

Docket No. 09-2024-OSPI-02357

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER**

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2024-SE-0130

A due process hearing was held before Administrative Law Judge (ALJ) Niles McDonald on February 3 through February 7, 2025, via videoconference. The Parent of the Student whose education is at issue¹ appeared and was represented by Jinju Park, attorney at law and Kerri Feeney, attorney at law. The Seattle School District (District) was represented by Susan Winkelman, attorney at law. Also present were Rachel Disario, Senior Assistant General Counsel for the District and Teresa Swanson, Student Support Supervisor for Special Education Services for the District.

PROCEDURAL HISTORY OF THE CASE

The Parent filed a due process hearing request (Complaint) on September 11, 2024. The matter was assigned to ALJ Jacqueline Becker on September 12, 2024. A prehearing conference was held on October 14, 2024, and the due process hearing was set for February 3 through 7, 2025. During the October 14, 2024 prehearing conference, ALJ Becker requested parties work together to reach an agreement as to the issues for the due process hearing. ALJ Becker requested the Parent submit a clarification of requested remedies to be addressed at the due process hearing. The Parent submitted a clarification of requested remedies on October 21, 2024, and a revised issue statement on October 23, 2024. On January 9, 2025, the case was reassigned to ALJ McDonald.

The due process hearing was held as set on February 3 through 7, 2025.

¹ To ensure confidentiality, names of parents and students are not used.

Due Date for Written Decision

The due date for a written decision in this case is thirty (30) calendar days after the close of the record. The record closed when the parties timely filed post-hearing briefs on March 24, 2025, and the due date for the written decision is April 23, 2025.

EVIDENCE RELIED UPON

Exhibits Admitted:

District's Exhibits: D2-D10, D12, D14, D18-D19, D21-D22

Parent's Exhibits: P2, P5-P10, P13-P14, P16-P20, P22-P23, P27-P33, P36, P38-P39, P43-P51, P52 pages 1, 4, and 5, P53-P58, P61, P65-P66, P68, P70-P71, P73, P76-P77, P79-84, P88-P93

Witnesses Heard:

The Student's Mother (Parent)
Heather Valentine, District School Psychologist
Teresa Swanson, District Special Education Supervisor
Joelle Loveless, District Special Education Teacher
Dr. Wendy Marlowe, Ph. D, A.B.P.P., Clinical Neuropsychologist
Ticely Reeves, District General Education Teacher
Katie Gallagher, District General Education Teacher
Christina DeCarufel, District Special Education Teacher
The Student's Father (Father)

Post-Hearing Briefs

A 50-page limit on any post-hearing briefs was included as a requirement in ALJ Becker's Order on Prehearing Conference, dated October 24, 2024. The Order also required a table of contents for any brief over 20 pages. The undersigned ALJ did not discuss these requirements with the parties at the hearing or address it in any orders.

On March 24, 2025, both parties timely filed post-hearing briefs. The District's filing was 36 pages. The Parent's filing was approximately 194 pages long and included numerous tables contextualizing data from various exhibits. The Parent's filing also failed to include a table of contents.

On April 8, 2025, the District filed an objection to the Parent's closing, citing page length and lack of table of contents. By this time, 15 days after filing, ALJ McDonald had already read the Parent's filing in great detail, including supplemental tables, and begun writing this order. The District's filing was well under the 50-page limit and does not appear to have been cut short to comply with the page limit. The District was not prejudiced by the page limit, nor by the Parent's violation of the page limit. The lack of a table of contents does not prejudice the District. As such, the Parent's brief was considered in full.

ISSUES

The issues for the due process hearing are:

Whether the District violated the IDEA and denied the Student a free appropriate public education (FAPE) by:

- A. Failing to conduct an appropriate triennial evaluation on May 1, 2023, by:
 - 1. Failing to examine discrepancies between the May 1, 2023 evaluation and prior evaluations;
 - 2. Failing to accurately evaluate reading comprehension;
 - 3. Relying in part on invalid data;
 - 4. Failing to identify all disabilities that might require specially designed instruction ("SDI");
 - 5. Using assessment results that were not reliably calculated or calculable; and
 - 6. Failing to determine whether and the extent to which the Student needed additional services or modifications to meet his annual goals.
- B. Failing to draft an appropriate individualized education program ("IEP") on May 1, 2023, that was reasonably calculated to confer meaningful educational benefit by:
 - 1. Failing to offer the Student challenging and meaningful goals;
 - 2. Failing to take into account baseline needs and then-present levels;
 - 3. Failing to set measurable goal targets;

4. Failing to set goals in the areas of need identified by the District's evaluation;
 5. Failing to provide SDI in the use of accommodations;
 6. Reducing the Student's SDI minutes despite the lack of progress on goals during the prior school year; and
 7. Failing to offer an appropriate placement.
- C. Failing to implement the May 1, 2023 IEP with fidelity in the delivery of reading service minutes.
- D. Failing to consistently provide the accommodations listed in the May 1, 2023 IEP by restricting access to the accommodations, failing to communicate to the Student regarding how to access those accommodations, and failing to instruct the Student in the use of the accommodations.
- E. Failing to draft an appropriate IEP in May 2024 that was reasonably calculated to confer meaningful educational benefit by:
1. Placing the Student in a general education environment for all but approximately one and a half hours per school day;
 2. Failing to include a measurable IEP goal for the area of reading decoding;
 3. Failing to include a measurable IEP goal for the area of math;
 4. Repeating a written language goal from the prior IEP; and
 5. Failing to provide coaching and training in social, behavioral, and executive functioning skills.
- F. Inappropriately penalizing the Student for behaviors related to his disability.
- G. Failing to consistently provide the accommodations listed in the May 2024 IEP by restricting access to the accommodations, failing to communicate to the Student regarding how to access those accommodations, and failing to instruct the Student in the use of the accommodations.
- H. Failing to develop a safety plan during the 2023-2024 school year prior to June 2024 or take effective measures to protect the Student from the impacts of

persistent racial harassment and disability-based bullying on his ability to access a FAPE.

- I. Failing to include the Parent in educational planning in Spring 2024 by:
 - 1. Failing to include her in discussions about, and drafting of, a safety plan or other measure to address the impact of bullying on the Student's FAPE; and
 - 2. Failing to notify the Parent prior to abruptly transferring the Student out of the special education classroom in an apparent effort to avoid outside observation of the classroom dynamics that were causing the Student distress.
- J. Whether the Parent is entitled to her requested remedies:
 - 1. Reimbursement for costs and expenses of the June 2024 Independent Educational Evaluation (IEE) by Dr. Wendy Marlowe;
 - 2. An IEP team meeting to consider IEE results, update the IEP, and determine whether the Student needs an additional partial reevaluation for occupational therapy and assistive technology; Payment for Dr. Wendy Marlowe to attend the IEP team meeting;
 - 3. Placement of the Student at Morningside Academy, a local non-public agency;
 - 4. Updated supplementary services for the Student including: laptop with assistive technology, headphones, graphic organizer, calculator, Student self-management plan, appropriate adult supervision for the Student, staff training and preparation time, and Student instruction in supplementary services;
 - 5. Reimbursement for tutoring services provided by Huntington Learning Center in summer 2024;
 - 6. Four weeks of summer school at Morningside Academy during summer 2025;
 - 7. 240 hours of tutoring in reading and math at Huntington Learning Center as prospective compensatory services;
 - 8. And/or other equitable remedies, as appropriate.

FINDINGS OF FACT

In making these Findings of Fact, the logical consistency, persuasiveness and plausibility of the evidence has been considered and weighed. To the extent a Finding of Fact adopts one version of a matter on which the evidence is in conflict, the evidence adopted has been determined more credible than the conflicting evidence. A more detailed analysis of credibility and weight of the evidence may be discussed regarding specific facts at issue.

Some of the evidence presented was hearsay, which is a statement made outside of the hearing used to prove the truth of what is in the statement. In administrative hearings, hearsay evidence is admissible if, in the judgment of the presiding officer, "it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs." Revised Code of Washington (RCW) 34.05.452(1). An ALJ may not base a finding of fact exclusively on hearsay evidence unless the ALJ determines that doing so "would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence." RCW 34.05.461(4). To the extent any findings of fact are based on hearsay, it is determined that such findings did not unduly abridge the parties' opportunity to confront witnesses and rebut evidence.

Background

1. The Student is currently [REDACTED], and lives and attends school in the District. D3 p.6.² At all times relevant to this proceeding, the Student attended [REDACTED] Elementary School. Additionally, the Student attended Dartmoor Academy, a non-public agency, during the 2020-2021 school year. D3 p.7.
2. The Parent referred the Student for a Special Education Evaluation on March 15, 2019. D3 p.7. The Student initially qualified for special education on June 24, 2019, under the category of emotional behavioral disability, with a recommendation for specially designed instruction (SDI) in reading and social/behavioral skills. D3 p.7.

² The hearing transcript is cited as "Tr." with references to the page of the cited testimony. For example, a citation to "Tr. 80" is to the testimony at page 80 of the transcript. Exhibits are cited by party ("P" for Parent, "D" for District), exhibit number, and page number. For example, a citation to "D1 p.5" is to the District's Exhibit 1 at page 5. Because the Parent gave their exhibits letter designations of A, B, C, D, E and F in addition to the "P" designation that was ordered in the prehearing order, Parent exhibits are referenced using two letters. For example, a citation to "PA2 p.4" is to the Parents' exhibit A2 at page 4.

3. A reevaluation was scheduled for May 7, 2020, following an IEE of the Student paid for by the District. D3 p.7. The IEE was conducted by Dr. Wendy B. Marlowe and included a full neuropsychological evaluation of the Student. The Student was diagnosed with cognitive disorders characterized as disorders of executive functions, phonological disorder, specific reading disability, mathematics disorder, disorders of scholastic skills (including handwriting,) and unspecified anxiety disorder. D3 p.11.

4. The 2020 reevaluation by the District found the Student continued to qualify for special education and related services but changed his eligibility category from emotional behavioral disability to other health impairment. D3 p.7. SDI was recommended in reading, social/behavioral, writing, and math. D3 p.7

May 2023 District Reevaluation

5. In the Spring of 2023, the District began planning for the Student's triennial reevaluation and sought the Parent's consent. D2 p.3. The District conducted the reevaluation of the Student in May 2023. D3. Most of the reevaluation was completed by Heather Valentine, the school psychologist.³ D3. The Student's special education teachers, Ann Gateley and Christina DeCarufel,⁴ as well as general education teacher Megan McCarrol were invited to attend the reevaluation team meeting. D3 p.1. The Parent received notice of the meeting, which included an invitation to bring "individuals who have knowledge or special expertise regarding the Student, including related services personnel, to participate." D3 p.1. The Parent did not bring any professionals to join.

6. The Parent gave consent for reevaluation on March 13, 2023, via a signed consent form. D2 p.3. The Parent wrote on this form that they wished for the reevaluation to consider Dr. Marlowe's IEE. The Parent also wrote that she had concerns that the Student's cognitive abilities were not being sufficiently assessed and that the Student's math skills were insufficient to transition to society. D2 p.3.

³ Ms. Valentine attended Virginia Tech, graduating with a bachelor's degree in English with a secondary teaching option; James Madison University in Virginia, graduating with a master's degree in special education in 1995; and Seattle University with an educational specialist degree in school psychology in 2015. Ms. Valentine is licensed in Washington State to be a school psychologist and has a national certification from the National Association of School Psychologists. She has worked as a school psychologist for 10 years and worked as a team lead for 3 years, and has previously worked as a special education teacher for 13 years. Tr. p. 237-238 (Valentine).

⁴ Ms. DeCarufel graduated the University of Washington with a BA in general studies and a focus in environmental studies. She also graduated from Western Governors University with a BA and a teacher certification in K-12 special education and elementary education. She has worked as a special education teacher for nine years and previously worked as an instructional assistant. Tr. p. 545-547 (DeCarufel).

7. The District's May 2023 reevaluation assessed the Student in the following areas: cognitive, study/organization skills, general background, medical physical status, reading, social/behavioral, writing, and math. D3.

8. In examining the cognitive capacity of the Student, the District employed the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V). D3 p.11. The Student scored average in visual spatial reasoning and fluid reasoning, and below average in block design and coding. D3 p.12. The Student' verbal comprehension, working memory, processing speed, and full-scale IQ score of the Student could not be reliably calculated. D3 p.11-12. The Student's full scale IQ could not be reliably calculated as there were large variances on his test score, which means they would not return useful results. Tr. p.243 (Valentine). Knowing the Student's full scale IQ would not have changed recommendations for SDI. Tr. p.257 (Valentine).

9. In examining the math skills of the Student, the District employed the Kaufman Test of Education Achievement, Third Edition (KTEA-3). D3 p.14. The Student scored below average in math composite. D3 p.15. The reevaluation included the Student's performance on standardized tests as well as classroom grades. D3 p.15-17. The math portion of the reevaluation also noted the Student's performance on the Measures of Academic Progress (MAP) test for the Fall and Winter 2018, Spring 2019, Fall 2019, and Fall 2022. The Student performed in the 90th percentile in Fall 2019, a result inconsistent with his performance everywhere else, where the Student scored between the 1st and 58th percentile. D3 p.17. The reevaluation recommended continuing SDI in math calculation and problem solving, as well as some accommodations. D3 p.8.

10. In evaluating the Student's reading skills, the District administered the Weschler Individual Achievement Test Fourth Edition (WIAT-4). D3 p.19. On the WIAT-4, the Student scored below average in reading, basic reading, decoding, reading fluency, phonological processing, orthographic processing, and the dyslexia index. D3 p.19-20. In reading comprehension, the Student's score was average. D3 p.19. The reevaluation included the Student's performance on standardized tests as well as classroom grades. D3 p.22-23. The reevaluation recommended continuing SDI in reading, particularly decoding and fluency, including strategies to sound out words he does not know on sight. D3 p.8. The reevaluation noted the Student had significant knowledge of language and used it to fill in gaps due to decoding difficulties. D3 p.23.

11. In examining the Student in the area of social and behavioral ability, the District employed the Behavioral Assessment System for Children, Third Edition (BASC-3). D3 p.24. On the BASC-3, the Student scored clinically significant in the areas of externalizing problems, internalizing problems, school problems, behavioral symptoms index, and adaptive scales composite. D3 p.24-25. The District also employed the

Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2) to test for issues of executive functioning. D3 p.27-29. The Student scored Clinically Elevated in the Behavior Regulation Index and Emotion Regulation Index on the BRIEF-2. D3 p.28. The reevaluation included feedback from the Parent, the Student's teachers, and classroom observations by the school psychologist. D3 p.29. The reevaluation recommended continuing SDI in social/behavior skills, with a focus on following teacher direction, transition from one activity to another independently, and increasing positive interactions with peers during group work. D3 p.8.

12. In examining the study and organizational skills of the Student, the District employed the BRIEF-2. D3 p.30-31. The Student scored Clinically Elevated in Global Executive Composite, Behavior Regulation Index, Emotion Regulation, and Cognitive Regulation Index on the BRIEF-2. D3 p.31-32. The reevaluation recommended continuing SDI in study/organizational skills with focus on planning tasks, independently initiating tasks, checking work for errors and correcting them before turning in the work, and organization of school materials. D3 p.8.

13. In examining the written language skills of the Student, the District employed the KTEA-3 and the WIAT-4. D3 p.34-35. The Student tested below average in written expression on the KTEA-3 and below average in Orthographic Processing – Extended on the WIAT-4. D3 p.35. The reevaluation recommended continuing SDI in written expression, with a focus on increasing skills in organization, production, and editing. D3 p.8.

14. Bias within the test structure was examined by Ms. Valentine and found to not significantly impact the Student's reevaluation. D3 p.8. Ms. Valentine is familiar with all the assessments used in the reevaluation and administered them in accordance with the instructions from the producer. Tr. p.242-252 (Valentine). She determined the Student's test results were valid. Tr. p.242-251 (Valentine).

15. The reevaluation considered Dr. Marlowe's 2020 IEE, noted the diagnoses, and incorporated them into the final evaluation, including specific learning disability. D3 p.11 and Tr. p.242 (Valentine.) Dr. Marlowe's 2020 IEE used different testing methods for some tests than the 2023 reevaluation, and they cannot be measured against one another or directly compared. Tr. p.268-269 (Valentine). Both assessments used tests aligning with OSPI's standard tests for determining severe discrepancy related to learning disabilities. Tr. p.269-270 (Valentine).

16. The reevaluation considered the results from the Student's 2020 District evaluation. Tr. p.268 (Valentine).

17. Suzanne Jones, the school nurse, performed the health and developmental history portion of the reevaluation. D3 p.17-18. This included screenings for vision and hearing. D3 p.17-18. The health screening found the Student's Attention Deficit Hyperactivity Disorder (ADHD) impaired the Student's thought processes and ability to complete academic tasks due to focus and attention span issues. D3 p.17-18. The recommendation was for the Student to return to their dentist and doctor for routine care. D3 p.18.

18. The reevaluation also considered the Student's report cards. The reevaluation found these showed the Student was succeeding in general education and made academic progress in fifth grade. Tr. p.275 (Valentine).

19. The reevaluation has a section where the Parent provided feedback and cited a diagnosis of dysgraphia and dyslexia. D3 p.10. The District did not specifically test for dysgraphia as part of its reevaluation of the Student, however, it did examine orthographic processing and considered graphomotor abilities. D3 p.13 and D3 p.19-20.

20. The May 2023 reevaluation determined the Student still qualified for special education services under the category of other health impairment. D3 p.6. The reevaluation recommended SDI in math, reading, written language, social/behavior, and study/organizational skill. D3 p.8.

21. The reevaluation team met on May 1, 2023, to complete the reevaluation. D3 p.9. The reevaluation meeting was attended by the Parent, Special Education Teacher Christina DeCarufel, Special Education Teacher Ann Gateley, General Education Teacher Megan McCarroll, and School Psychologist Heather Valentine. D3 p.9.

May 2023 Individualized Education Program

22. Following the May 2023 reevaluation, the District developed a new annual IEP for the Student. D5. The Parent attended the IEP meeting on May 1, 2023. D5 p.1. Also present were Ms. Valentine; Ms. McCarroll; Ms. DeCarufel; and Ms. Gateley. D5 p.3.

23. The 2023 IEP was developed based on the Student's reevaluation, the previous IEP and the progress on the goals of the previous IEP, and baseline assessments used to determine the Student's skill levels, as well as daily progress data. Tr. p. 548-49, 551-52 (DeCarufel). The team looked at this information, as well as the Student's current needs, to determine SDI minutes for the IEP. Tr. p. 562-563 (DeCarufel).

24. Prior to the May 2023 IEP meeting, the Parent discussed with the District the importance of the Student's 2020 ADHD diagnosis, concerns about the Student's anxiety, issues with dyslexia and dysgraphia, problems with executive function and memory, and concerns with the Student's progress in math. D5 p.4.

25. The May 2023 IEP contained goals for math, reading, social behavior, study and organization, and written language. D5 p.6-11.

26. The math goal for the May 2023 IEP was for the Student to improve math calculation from 0% to 50% accuracy for multi-step calculation problems and 0% to 60% accuracy for multi-step word problems. D5 p.7. These goals were more complex than the 2022 IEP goals, which involved three-digit subtraction problems and equivalent fraction problems. D1 p.6-7

27. The reading goal for the May 2023 IEP was for the Student to improve from 68 correct words per minute reading fluency to 93 correct words per minute reading fluency on timed reading fluency assessments, based on a 6th-grade reading level. D5 p.9.

28. The social and behavioral goal for the May 2023 IEP was for the Student to increase on a rating scale from 1-of-4 to 3-of-4 in various social skills as rated by an observer as well as expressing disagreement neutrally from 20% of the time to 60% of the time, based on periodic observational data. D5 p.9-10.

29. The study and organization goal for the May 2023 IEP was for the Student to begin task assignments without prompting 50% of the time, up from 0%, as measured by observation, as well as informing the teacher when he turned in late work from 0-of-5 opportunities to 3-of-5 opportunities. D5 p.10-11.

30. The written language goal for the May 2023 IEP was for the Student to compose a paragraph scoring a 3-of-4, up from 2-of-4, based on a teacher created rubric. D5 p.11. There was an emphasis on creating "power paragraphs" for the grade level, and this evolving skill was a large part of the Student's learning goals. Tr. p.624 (DeCarufel). This was a new set of skills moving beyond just building correct word sequence in a sentence. Tr. p.624 (DeCarufel).

31. The IEP also considered the least restrictive environment (LRE) available to the Student and placed the Student in the category of 40-79% general education, after considering a less restrictive setting and determining the option with greater general education class time would not meet the Student's educational needs. D5 p.17-18. The placement was specifically for 69.14% general education in May and June 2023, then 72.17% general education from July 2023 to May 2024. D7 p.15. The Parent did

not object to this placement during the IEP team meeting. Tr. p.128-129 (Parent) and Tr. p.566 (DeCarufel).

32. During the May 2023 IEP meeting, the Parent did not disagree with proposed study and organizational skills goals or social behavior goals. Tr. p.123 (Parent). The Parent did not raise any objections to the proposed math goals during the May 2023 IEP meeting. D2 p.3 and Tr. p.120 (Parent).

33. During the May 2023 IEP meeting the Parent did not raise any objections to any of the proposed academic goals within the IEP. Tr. p.121 (Parent). During the May 2023 IEP meeting the Parent did not request any additional goals in areas that were not included in the proposed IEP. Tr. p.123-124 (Parent).

34. From May 4, 2023, to June 30, 2023, the IEP included: 150 minutes of math per week in a special education setting, 150 minutes of reading per week in a special education setting, 60 minutes of social/behavioral education per week in a special education setting, 150 minutes of social/behavioral education per week in a general education setting, 30 minutes of study/organization skills education per week in a special education setting, 50 minutes of study/organization skills education per week in a general education setting, and 150 minutes of written language education per week in a special education setting. D5 p.15.

35. From July 1, 2023, to May 3, 2024, the IEP included: 240 minutes of math per week in a special education setting, 90 minutes of reading per week in a special education setting, 30 minutes of social/behavioral education per week in a special education setting, 50 minutes of social behavioral education per week in a general education setting, 30 minutes of study/organization skills education per week in a special education setting, 30 minutes of study/organization skills education per week in a general education setting, 90 minutes of written language education per week in a special education setting, and 50 minutes of written language education per week in a general education setting. D5 p.15-16.

36. This showed an increase in total minutes spent in special education from the 2022 IEP. Compare D1 p.13 to D5 p.15-16.

37. The Mother did not disagree with the SDI proposed in the May 2023 IEP. D6 p.1.

38. The IEP recommended the following as daily accommodations: access to daily schedule, break larger assignments into smaller parts, frequent positive reinforcement of appropriate behavior, preferential seating, repeat directions and check for understanding, and the use of a graphic organizer. D5 p.12. The IEP recommended the following as daily and during testing accommodations: multiplication table (grades

4 and above only), reduction of visual distractions: study carrel or other similar visual barrier, student-selected break available, and text to speech. D5 p.12. Other than requesting headphones for the Student, the Parent did not disagree with the accommodations proposed in the May 2023 IEP. Tr. p.124 (Parent).

39. While reviewing the May 2023 IEP, the Parent did not object to the placement proposed by the school. Tr. p.129 (Parent). The Parent did not request any additional IEP meetings to discuss or amend the May 2023 IEP. Tr. p.121-122 (Parent). The Parent did not raise any other questions about the May 2023 IEP during the IEP meeting. Tr. p.131 (Parent).

40. On May 1, 2023, the District issued a prior written notice (PWN) indicating the IEP would be implemented on May 18, 2023. D5 p.19. The Parent received the PWN on May 2, 2023. D5 p.19.

41. The IEP team did not discuss the proposed SDI for the May 1, 2023, through May 3, 2024, period in detail at the IEP team meeting, so the District followed up by email, requesting the Parent respond with any questions about SDI, and asking for confirmation of parental participation. D6 p.1. The Parent was given a copy of the Student's proposed IEP and an opportunity to review the placement. D6 p.1. The Parent responded by email that she participated in the IEP meeting and did not have any questions. D6 p.1.

Implementation of the May 2023 IEP

42. During the period of October 4, 2023, through January 31, 2024, the Student's reading SDI was "not consistently being given." D84 p.20. This is because Ms. DeCarufel had insufficient support to provide full SDI. D84 p.20. The District provided approximately 45 minutes weekly, about half of what was required. D84 p.20.

43. By April 1, 2024, the Student had completed his reading goals per the IEP, reading 118 unpracticed text words per minute, 25 words per minute above his target of 93. D10 p.6.

44. The District provided the Parent with ongoing progress reports on the Student's education and development during the 2023 - 2024 school year. D10. These showed progress on each of the IEP goals and reflected advancing skills and improving functioning by the Student in all areas. D10 and D15.

45. During the 2023-2024 school year, the Student achieved several A's and B's on his report cards. D16 p.1. This information was shared with the Parent. D16.

Huntington Learning Center

46. The Student underwent an academic evaluation at an outside tutoring agency, Huntington Learning Center (Huntington), on May 4, 2024, at the request of the Parent. On the achievement test, his reading comprehension was in the 21st percentile and mathematics in the 12th percentile. P91 p.11

47. The Parent provided a copy of the Huntington assessment to Ms. DeCarufel prior to the 2024 IEP. D7 p.18. Ms. DeCarufel examined the Huntington assessment but could not connect the test results to grade level standard. Tr. p.558 (DeCarufel).

48. At Parent's expense, the Student underwent tutoring at Huntington in reading and math. The Parent felt the Student made excellent progress at Huntington and was able to further his education significantly. Tr. p.207 (Parent). The Student benefitted from this additional educational opportunity. Tr. p.207 (Parent).

May 2024 Individualized Education Program

49. The District held an IEP team meeting on May 15, 2024. P7. The Parent attended the May 15, 2024 IEP team meeting. Tr. p.132 (Parent). During the meeting, the Parent stated she wished to wait on having any IEP drafted until an IEE and follow-up report by Dr. Marlowe could be completed. Tr. p.135 (Parent). The Parent had not yet hired Dr. Marlowe to conduct a follow-up report. (See P91 p.1, showing evaluation dates beginning in July, and P92 p.1-4, showing billing did not begin until May 24, 2024). The Parent did not request an IEE at District expense. The IEP was drafted anyway with the Parent's participation. Tr. p.135 (Parent).

50. The May 2024 IEP considered the strengths of the Student and the concerns of the Parent for enhancing the education of the Student. D7 p.5. The May 2024 IEP considered the performance of the Student, including state and district assessments. D7 p.5. The May 2024 IEP considered the communications needs of the Student, the language needs of the Student, the visual needs of the Student, and assistive technology and services needs of the Student. D7 p.5-6. The May 2024 IEP considered the behavior of the student where it impacted the Student's own learning. D7 p.5.

51. The May 2024 IEP included measures of educational performance and annual goals in the areas of Math, Reading, Social Behavioral Skills, Study and Organizational Skills, and Written Language. D7 p.7-11. Progress on these goals was measured by observation from classroom teachers and instructional assistants. Tr. p.554 (DeCarufel).

52. The math goal for the May 2024 IEP was for the Student to improve math calculation from 40% to 80% accuracy for multi-step calculation problems and 40% to 80% accuracy for multi-step word problems. D7 p.8. Ms. DeCarufel reviewed the Student's progress each day with the Student and discussed his progress with him, including reviewing assignments, providing and working through additional examples, and reviewing the additional examples with the student, all of which would then be included in the reports. Tr. p. 570 (DeCarufel.) This goal was developed based on the Student's previous progress on his IEP math goals, and the need for further mastery. Tr. p.568-569 (DeCarufel.)

53. The reading goal for the May 2024 IEP was for the Student to improve from 93 correct words per minute reading fluency to 120 correct words per minute reading fluency on timed reading fluency assessments, based on a 7th-grade reading level. D7 p.9. The Student's reading fluency instruction included decoding strategies. Tr. p.611 (DeCarufel.)

54. The social and behavioral goal for the May 2024 IEP was for the Student to improve his disagreement with others as measured by an increase of 4-of-20 to 12-of-20 on a perspective taking rubric, which would be measured by observational data. D7 p.10.

55. The Student's 2024 IEP included accommodations to support the Student's behavior, including frequent positive reinforcement of appropriate behavior, preferential seating where adults could provide prompting for on-task behavior, and student-selected and adult-planned breaks. D7 p.12. His IEP also provided accommodations to support his executive functioning skills, including access to a visual daily schedule, breaking assignments into small parts, prompting to review written directions for tasks, and reduction of visual distractions. D7 p.12

56. The study and organization goal for the May 2024 IEP was for the Student to self-advocate and express his needs, from 3-of-10 to 6-of-10 on an executive functioning/self-advocacy rubric. D7 p.10-11. The 2024 IEP also set a goal focused on improving interactions during group work. D7 p.10.

57. The written language goal for the May 2024 IEP was for the Student to compose a paragraph scoring a 2.5-of-4, up from 1.5-of-4, based on a teacher created rubric. D7 p.11. This goal is lower than the previous IEP's goal, noting that the Student often used Chat GPT to write his sentences for him rather than relying on it for proof reading. D7 p.11. This goal raised the standards of accomplishment for the Student to be closer to 7th grade standards. Tr. p.576-577 (DeCarufel.) The written language goal was suggested by Ms. DeCarufel, with the intent to help the Student develop a skill necessary to the Student's success in seventh and eighth grade. Tr. p.576-577 (DeCarufel.)

58. The Parent did not request an alternative to the goals stated in the May 2024 IEP. She only expressed a general disagreement with any goals set by the school until Dr. Marlowe's report was available. Tr. p.136 (Parent). The Parent disagreed with any IEP until it included a new evaluation by Dr. Marlowe. Tr. p.138 (Parent). The Parent did not feel any IEP would be sufficient until Dr. Marlowe's new evaluation was completed. Tr. p.13p (Parent).

59. The May 2024 IEP included a list of accommodations for the Student. D7 p.12-13. The Parent did not object to any accommodations within the May 2024 IEP at the IEP team meeting. Tr. p. 568 (DeCarufel). The list of accommodations included text to speech technology, but did not include speech to text technology. D7 p.12. The list of accommodations did not require the Student to have a computer for all writing. D7 p.12.

60. The May 2024 IEP included the following SDI: 240 minutes of math per week in a special education setting, 90 minutes of reading per week in a special education setting, 30 minutes of social/behavioral education per week in a special education setting, 50 minutes of social/behavioral education per week in a general education setting, 30 minutes of study/organization skills education per week in a special education setting, 50 minutes of study/organization skills education per week in a general education setting, 90 minutes of written language education per week in a special education setting, and 50 minutes of written language education per week in a general education setting. D7 p.15.

61. The IEP also considered the least restrictive environment (LRE) available to the Student and placed the Student in the category of 40-79% general education. D7 p.16. This amount was specifically 72.17% of time in general education. D7 p.15.

62. The Parent received PWN of the District's intent to implement the May 2024 IEP on May 15, 2024, with an initiation date of May 20, 2024. D7 p.18.

63. The District provided the Parent with ongoing progress reports on the Student's education and development during the 2024-2025 school year. D10. These showed progress on each of the IEP goals and reflected advancing skills and improving functioning by the Student in all areas. D10 and D15.

64. Following the May 2024 IEP team meeting, the Parent demanded the Student be removed from Ms. DeCarufel's classroom to work with another teacher. P39 p.1. This request was not granted by the school. Much of the Parent's communication with Ms. DeCarufel became tense in this period. P53 p.4. Ms. DeCarufel grew concerned about communications with the Parent without the direct involvement of the principal. P56 p.1.

The Parent did not request a meeting to change placement or make changes to the Student's IEP, she only wanted the Student in a different classroom. Tr. p.197-198 (Parent).

65. The Parent was able to observe the Student in a classroom setting on December 11, 2024. Tr. p.139 (Parent).

Devices and Accommodations in Classroom

66. The Student used a school-provided laptop to assist with some assignments and engage in online learning for the entire time he was at [REDACTED]. The Student used the laptop for speech to text and text to speech on some assignments. Tr. p.560 (DeCarufel). The Student was skilled in technology and knew how to use text to speech and speech to text, both of which he employed frequently. Tr. p.493 (Reeves).⁵ All students at the school were instructed in the use of text to speech and speech to text. Tr. p.560 (DeCarufel). The Student could use the computer for advanced projects, such as self-motivated computer coding. P70 p.115.

67. The Student also had access to calculators and graphic organizers to assist him in his studies. Tr. p.492-493 (Reeves). All students at [REDACTED] are given graphic organizers. Tr. p.493 (Reeves). The Student was instructed on how to use the graphic organizer. Tr. p.493 (Reeves).

68. The Student would frequently use his laptop for purposes other than assignments and would distract other students with his device. In response, staff limited Student's access to the laptop when it was not necessary for an assignment. P23. This included removing the Student's access to the internet when not in use and expanded to removing the laptop when it was not suitable to a lesson. Tr. p.597-598 (DeCarufel). When the Student did not have access to the laptop, the District provided staff to support the Student. Tr. p.599 (DeCarufel). The District provided the Student with other laptops when it was appropriate to change the level of restriction the Student faced on devices. Tr. p.677 (DeCarufel).

69. The Student, through the Parent, was offered alternative forms of technology, such as a tablet device, which the teachers could still control to keep the Student on task. Tr. p.597-598 (DeCarufel). The tablet could provide the Student with speech to text and text to speech technology. Tr. p.597 (DeCarufel). The Student was not given the device as the Parent disagreed with use of the tablet. P20 p.1.

⁵ Ms. Reeves holds an undergraduate degree in sociology from the University of Washington, and a master's in teaching from Heritage University. Ms. Reeves has been teaching for 25 years, the last 15 of which have been with [REDACTED].

70. The Student had access to the accommodations listed in his IEP in Ms. DeCarufel's class, Ms. Reeve's class, and Ms. Gallagher's class.⁶ Tr. p.560-561 (DeCarufel), Tr. p.484 (Reeves), and Tr. p.517-520 (Gallagher).

Discipline

71. The Student was not suspended in the 2022-2023 school year or the 2023-2024 school year. Tr. p.145 (Parent). When faced with discipline for outbursts or being off task, the Student felt defeated and that he was constantly being surveilled for wrongdoing. Tr. p.174 (Parent). This increased when, in response to hostility from another student (hereafter called Student Alpha for privacy,) the Student began attempting to film potentially hostile moments in the classroom rather than studying. P46 p.1. The Student also kept a journal where he wrote notes in his personal time, including letters to other people about his experiences. P.83, and Tr. p.200-202 (Parent).

72. The Student was often punished for outbursts or misbehavior with what the Student's teachers called "lunch reflections," which could take the form of written assignments. Tr. p.696-698 (DeCarufel). The Student was occasionally asked to perform written lunch reflections by Ms. DeCarufel and other teachers. Tr. p.696 (DeCarufel).

73. The Student was also asked to sit out the first fifteen minutes of a school dance due to the Student using ChatGPT to create assignments, rather than writing them himself, which also included inappropriate content. P27 p.4, Tr. p.695 (DeCarufel), and Tr. p.300 (Swanson).

74. Ms. DeCarufel told the Student to "shut your mouth" sometime in the 2024-2025 school year. Tr. p.713 (DeCarufel).

Bullying and Safety Plan

75. Another student at [REDACTED] (Student Alpha) called the Student the "N-word" (this is a sanitized version of a racial epithet the court will not commit to paper) at school on or around November 10, 2023. P91 p.9. The Parent reported this event to Ms. DeCarufel. D82 p.8; Tr. p.157 (Parent). The "N-word" was the phrase used by the District when discussing the use of the word. Tr p.760 (Father).

⁶ Ms. Gallagher possesses a bachelor's degree in history, and a master's in teaching from Seattle University. She has been teaching with [REDACTED] for 15 years. She is nationally board certified to teach adolescent history.

76. The Student is Black and felt violated by Student Alpha's use of the "N-word." Tr. p.761 (Father). The Student spent his mornings preparing to face and respond to racist bullying at school, rather than preparing for school. Tr. p.766-767 (Father).

77. The Student felt he could not rely on teachers or District staff to protect him or help him when he was called the "N-word." Tr. p.761-762 (Father).

78. On January 19, 2024, Student Alpha informed Katie Gallagher, the Student's history teacher, that the Student was calling Student Alpha [REDACTED] and telling other students to do so as well. P14. The Student was spoken to in the hallway about this behavior and responded that Student Alpha had said something racist to the Student, and had previously called the Student the "N-Word." P14. The Student was asked if he had reported it, and said he had, to the principal, but was unable to identify the principal accurately (see P14, calling Ms. Dixon a man.) Ms. Gallagher shared this information with the school counselor, school administration, and other teachers. D14.

79. Ms. Gallagher reported what the Student told her on January 2024 to the school administration. After this, the Students were seated separately. Tr. p.511-512 (Gallagher.)

80. On March 25, 2024, the Student made racist comments about other students, including telling an Indian student that he did not like Indian people. In response, the District spoke to the Student about his behavior without escalating it to formal discipline. P20 p.1.

81. In April 2024, the Student reported to Ms. DeCarufel that he had been called the "N-word" by Student Alpha and asked to go to the office. Tr. p.590-591 (DeCarufel). Ms. DeCarufel did not see this take place but let the Student go to the office, and upon his return, helped him fill out a reporting form for the school counselor on his laptop. Tr. p.590-591 (DeCarufel).

82. The Parent had a meeting with the District on May 8, 2024, to discuss the Student's disruptive behavior in the classroom as well as the situation between Student Alpha and the Student. Tr. p.500 (Reeves) and Tr. p.184 (Parent). After attending the May 8, 2024 meeting, the Parent felt that the school failed to adequately address Student Alpha's racist behavior. Tr. p.191 (Parent).

83. Ms. Reeves had not seen the Student and Student Alpha interacting negatively, and only became aware of their interactions during the May 8, 2024 meeting. Tr. p. 502-503.

84. Student Alpha spit on the Student on May 18, 2024. P45 p.1. The Student punched Student Alpha in response. Tr. p.176 (Parent). The Student was sent to the office and asked to write a reflection paper while staff de-escalated Student Alpha. Tr. p.603 (DeCarufel). The reason the Student was sent to the office was because Student Alpha was less under control, while the Student was capable of leaving the confrontation. Tr. p.603-604 (DeCarufel). The Student was asked to write down their experience so Ms. DeCarufel could discuss the Student's feelings at the next opportunity. Tr. p.603 (DeCarufel).

85. The Student was again called the "N-word" on May 30, 2024. Tr. p.197 (Parent). This took place in sixth period math class with Ms. DeCarufel. Tr. p.744-746 (DeCarufel). Ms. DeCarufel did not hear Student Alpha say the "N-word." Tr. p.744-746 (DeCarufel). The Student asked to go to the office and reported the incident. Tr. p.744-746 (DeCarufel). In response, the Parent filed a Harassment, Intimidation, and Bullying (HIB) complaint. P91 p.9.

86. On May 31, 2024, the District created a safety plan for the Student. P52. This plan addressed interactions between the Student and Student Alpha. P52 p.5. This plan also included considerations and plans for what to do if the Student had issues with technology and disruptive behavior. P52. This plan also included corrective action, including planning for additional staffing in the classroom and the implementation of an assigned seating plan. P58. This safety plan was not the finalized safety plan, but a temporary one without input from the Parent. P52 p.1. The same day Ms. DeCarufel met with the Student to check in, debrief, and make sure he felt supported. P43 p.1.

87. The Parent was given an opportunity to participate in drafting the finalized safety plan, including suggesting edits to the plan, which she shared with the District on June 5, 2024. P53. It is unclear if the safety plan was ever finalized or implemented.

88. The Student's teachers were not responsible for investigating bullying or harassment claims, nor were they responsible for building a response to bullying and harassment. Tr. p.740-741 (DeCarufel).

89. The District had policies prohibiting harassment, intimidation, or bullying of students. D65. The District had a formal process regarding complaints of discrimination. D66. When the Parent filed a complaint with the District, the Principal performed an investigation and found a pattern of harassment of the Student by Student Alpha took place during the 2023-2024 school year. P58. The District took corrective action in alignment with its policies. P58.

90. The District would encourage the Student when he responded appropriately to bullying and provocation and would discipline the bully. P51.

91. The Student wrote in a hand-written personal journal that he was quite frustrated with the way he was treated by the District. P83

92. Around June 10, 2024, Student Alpha again called the Student the “N-word.” Tr p.203 (Parent).

Specially Designed Instruction and IEP

93. On May 6, 2024, the Parent raised concerns that the Student was not receiving sufficient IEP minutes to align with his educational needs and requested a log of IEP minutes. P31 p.2-3. Ms. DeCarufel informed the Parent that the school does not log IEP minutes on a day-to-day basis, but instead that the Student’s schedule was designed to provide the Student with sufficient minutes to reflect the needs of the IEP, including time spent receiving SDI in a general education setting. P31 p.2-3 and Tr. p.566-568 (DeCarufel).

94. The Student’s math SDI was delivered entirely in a special education math class for both the 2023-2024 and 2024-2025 school year. Tr. p.627 (DeCarufel). The Student’s other SDI minutes were delivered in a combination of general education and special education settings, with support from special education staff for both school years. D5 p.15 and D7 p.15.

95. Ms. DeCarufel’s ability to provide SDI was not impacted by incidents involving Student Alpha, nor by other special education students interrupting class in general. Tr. p.746-747 (DeCarufel). The District plans for, and provides additional staff for, the needs of special education students so that interruptions to class are not so severe as to hamper the delivery of SDI. Tr. p.747-748 (DeCarufel).

96. Ms. DeCarufel provided the Student’s general education teachers and instructional assistants with IEP-at-a-glance paperwork, which she reviewed with them every year so that staff were aware of the Student’s needs. Tr. p.561-562 (DeCarufel). These documents were made available digitally and in print. Tr. p.579 (DeCarufel).

2024 Neuropsychological Evaluation

97. The Student underwent a second neuropsychological evaluation with Dr. Marlowe on June 25, 26, July 2, and July 30, 2024. P91 p.1. Dr. Marlowe previously performed an IEE of the Student in 2020. This reevaluation considered the 2020 IEE report, as well as medical and educational records from the District, Dartmoor School,

and Huntington Learning Center. Dr. Marlowe did not speak with the Student's teachers as part of the evaluation. Tr. p.455 (Dr. Marlowe).

98. The Parent paid for Dr. Marlowe's evaluation of the Student and did not request the District fund the reevaluation. Tr. p.212 (Parent).

99. As part of her evaluation, Dr. Marlowe attempted an observation of the Student in the special education classroom setting at [REDACTED]. Tr. p.409 (Dr. Marlowe). The day of the observation, June 12, 2024, the Student was relocated to another classroom with another teacher due to Ms. DeCarufel having to address a crisis with another student. Tr. p.628 (DeCarufel). The Student was placed in Ms. Loveless's class. Tr. p.344-345 (Loveless). Dr. Marlowe observed the Student in Ms. Loveless's classroom. Tr. p.409 (Dr. Marlowe).

100. Dr. Marlowe again observed the Student in January 2025, this time in the special education classroom. This lasted one hour. Tr. p.439-440 (Dr. Marlowe).

101. Dr. Marlowe did not find the 2023 IEP sufficient for meeting the Student's needs. She opined that the IEP did not sufficiently account for student's anxiety, which distracts him from studies. Tr. p.408-409 (Dr. Marlowe).

102. Dr. Marlowe testified that the District failed to consider discrepancies between the Student's WISC-V test scores between 2020 and 2023. Tr. p.382-387 and Tr. p.441-442 (Dr. Marlowe). Dr. Marlowe testified that these score differences were likely due to examiner error, caused either by incorrectly administering the test or incorrectly scoring the test. Tr. p.384 (Dr. Marlowe). However, Dr. Marlowe also stated that the discrepancies between scores could be because the Student did not perform as well as he could for "some reason" or due to educational deprivation. Tr. p.384 (Dr. Marlowe). Dr. Marlowe administered the WISC-V to the Student in 2020, while the District administered the WISC-V in 2023. Tr. p.442 (Dr. Marlowe).

103. When Dr. Marlowe administered the WISC-V in 2020, the Student scored 103 in verbal comprehension, 100 in visual spatial, 97 in fluid reasoning, 88 in working memory, and 98 in processing speed. P91 p.25. The Student was assessed to have a full scale IQ of 92. P91 p.25. In the 2023 reevaluation, the Student's score was not reliably calculable for verbal comprehension, 86 in visual spatial, 88 in fluid reasoning, not reliably calculable in working memory, and not reliably calculable in processing speed. The Student's Full Scale IQ was not reliably calculable.

104. Dr. Marlowe did not find the 2024 IEP sufficient for meeting the Student's needs, as the goals were too large and inconsistent with the Student's needs. Tr. p.411 (Dr. Marlowe). The Student's math goals targeted 50% accuracy in curriculum material

for math calculation, but did not divide math into sections of addition, subtraction, multiplication, and division, meaning the Student could reach 100% success in addition and subtraction, 0% in division and multiplication, and successfully achieve the target goal, assuming even distribution. Tr. p.411-412 (Dr. Marlowe). Dr. Marlowe also opined that the written language goal was not measurable because it had too many parts. Tr. p.453 (Dr. Marlowe).

105. Dr. Marlowe did not believe the Student understood how to use text to speech based on her interviews of the Student. Tr. p.455 (Dr. Marlowe).

106. Dr. Marlowe found the IEP section regarding the Student's disabilities to be insufficient, as the paperwork listed the disabilities separately from one another, and did not cumulatively explain the interactions of the disabilities. Tr. p.452 (Dr. Marlowe).

107. Dr. Marlowe recommended the use of text to speech technology and calculators to assist the Student in advancing his education. D91 p.23

108. Dr. Marlowe recommended removal of a 2019 MAP math score, which placed the Student in the 90th percentile from the Student's District reevaluation. Tr. p.389 (Dr. Marlowe).

109. Dr. Marlowe diagnosed the Student with educational deprivation. Tr. p.373 (Dr. Marlowe). Dr. Marlowe attributes this to "not being provided a meaningful educational experience over the course of the Student's time in school." Tr. p.379 (Dr. Marlowe). Dr. Marlowe attributes this to an absence of an appropriate school program, absence of specially designed instruction, and the absence of safety in school. Tr. p.427 (Dr. Marlowe).

Credibility Determination

110. Dr. Marlowe stated the District failed to properly interrogate the differing scores between the Student's 2020 and 2023 WISC-V test results. Dr. Marlowe stated the differing scores are likely due to a failure of the District to properly administer or score the WISC-V. Tr. p.384 (Dr. Marlowe).

111. Ms. Valentine stated she administered the WISC-V to the Student in accordance with the instructions of the test provider. Tr. p.242-243 (Valentine). Ms. Valentine stated she is familiar with the test and has administered it before. Tr. p.242-243 (Valentine). Ms. Valentine stated she believed the results of the WISC-V were valid. Tr. p.242-243 (Valentine).

112. Though Dr. Marlowe’s testimony is compelling, here, Ms. Valentine’s testimony will be afforded more weight. Dr. Marlowe acknowledged that the cause of the discrepancy could also be poor student performance for “some reason” or due to educational deprivation. Tr. p.384 (Dr. Marlowe). There is no testimony suggesting that Ms. Valentine failed in her duty to properly administer the tests or was unqualified to administer the test. Further, Dr. Marlowe was not present when Ms. Valentine administered the test to the Student and had no firsthand knowledge to support her assertion. As such, Dr. Marlowe’s opinion regarding the validity of the testing done by Ms. Valentine is accorded little weight.

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

1. The Office of Administrative Hearings (OAH) has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 United States Code (USC) §1400 *et seq.*, the Individuals with Disabilities Education Act (IDEA), Chapter 28A.155 Revised Code of Washington (RCW), Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated under these provisions, including 34 Code of Federal Regulations (CFR) Part 300, and Chapter 392-172A Washington Administrative Code (WAC).
2. The District bears the burden of proof in this matter. RCW 28A.155.260(1). In a due process hearing, the burden of proof is a preponderance of the evidence. RCW 28A.155.260(3).

The IDEA and FAPE

3. Under the IDEA, a school district must provide a free and appropriate public education (FAPE) to all eligible children. In doing so, a school district is not required to provide a “potential-maximizing” education, but rather a “basic floor of opportunity.” *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 200-201 (1982).
4. In *Rowley*, the U.S. Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the IDEA. The first question is whether the state has complied with the procedures set forth in the IDEA. The second question is whether the individualized education program developed under these procedures is reasonably calculated to enable the child to receive educational benefits. “If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.” *Rowley*, 458 U.S. at 206-07.

5. Procedural safeguards are essential under the IDEA, particularly those that protect the parent's right to be involved in the development of their child's educational plan. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir. 2001). Procedural violations of the IDEA amount to a denial of FAPE and warrant a remedy only if they:

(I) impeded the child's right to a free appropriate public education;

(II) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents' child; or

(III) caused a deprivation of educational benefits.

20 USC §1415(f)(3)(E)(ii); WAC 392-172A-05105(2); 34 CFR §300.513(a)(2).

6. "To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The determination as to whether an IEP is reasonably calculated to offer a student FAPE is a fact-specific inquiry. As the U.S. Supreme Court has made clear, "[a] focus on the particular child is at the core of the IDEA," and an IEP must meet a child's unique needs. *Id.* at 400. The "essential function of an IEP is to set out a plan for pursuing academic and functional advancement." *Id.* at 399. Accordingly, an IEP team is charged with developing a comprehensive plan that is "tailored to the unique needs of a particular child." *Id.* at 391. Additionally, the Student's "educational program must be appropriately ambitious in light of his circumstances" *Id.* at 402.

7. In reviewing an IEP, "the question is whether the IEP is *reasonable*, not whether the court regards it as ideal." *Id.* at 999 (emphasis in original). The determination of reasonableness is made as of the time the IEP was developed. *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). An IEP is "a snapshot, not a retrospective." *Id.*

Appropriateness of May 2023 Triennial Reevaluation (Issue A)

8. The appropriateness of an evaluation must be determined in light of what was known, or should have been known, at the time the evaluation was conducted. Also, whether an evaluation is appropriate should not be judged in hindsight. This is the so-called snapshot rule. See *Adams*, 195 F.3d at 1141.

9. School districts “must ensure that...[t]he student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.” WAC 392-172A-03020(3)(e).

10. Further, the IDEA does not give parents the right to dictate the areas in which a school district must assess a student as part of a special education evaluation. See *Letter to Unnerstall*, 68 IDELR 22 (OSEP 2016); *L.C. v. Issaquah Sch. Dist.*, 2019 U.S. Dist. LEXIS 77834, 2019 WL 2023567 (W.D. Wash 2019) (citing *Avila v. Spokane Sch. Dist.* 81, 686 F. App'x 384, 385 (9th Cir. 2017)), *aff'd sub nom. Crofts v. Issaquah Sch. Dist.* No. 411, 2022 U.S. App. LEXIS 907 (9th Cir. 2022).

11. When conducting special education evaluations, districts must ensure that a child is assessed in “all areas of suspected disability.” WAC 392-172A-03020 (3)(d) (emphasis added). But a district need not evaluate in areas in which it does not suspect a disability. See, e.g., *Razzaghi v. Dist. of Columbia*, 44 IDELR 271 (D.D.C 2005); *Moses Lake Sch. Dist.*, 109 LRP 26490 (2008). An evaluation must be “sufficiently comprehensive to identify all of the student’s special education and related services needs.” WAC 392-172A-03020(3)(g). The evaluators must “[u]se a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student... that may assist in determining whether the student is eligible for special education...” WAC 392-172A-03020(2); see also 34 C.F.R. § 300.304(b)(1). Finally, the assessments must be “administered by trained and knowledgeable personnel.” WAC 392-172A-03020(3)(iv); 34 C.F.R. § 300.304(c)(1)(iv).

12. Here, the evidence demonstrates that the District’s reevaluation met the requirements of the IDEA, fulfilled the needs of the Student, and properly evaluated their disabilities and needs. The reevaluation was comprehensive and complied with the IDEA’s requirements for a reevaluation. The reevaluation was sufficiently comprehensive in that it assessed all areas of suspected disability, which were general background, medical-physical, math, written language, reading, social behavior, and cognitive ability. No other areas were identified or suggested by the Parent or the District. The District employed a wide variety of assessments and tools to gather relevant functional, developmental, and academic information about the Student’s needs. The reevaluation looked at the Student’s existing data, test scores, past academic performance, previous evaluations (including Dr. Marlowe’s 2020 evaluation,) medical diagnoses, special education services, IEP progress notes, the Parent’s input, classroom observation, and the results of multiple assessments. The reevaluation was completed by qualified personnel, as required by WAC 392-172A-03020(3)(iv). Thus the District has shown the 2023 reevaluation was appropriate.

A1. Did the reevaluation violate the IDEA by failing to examine discrepancies between the May 1, 2023 evaluation and prior evaluations?

13. The Parent contends the reevaluation was inappropriate because it did not examine discrepancies between test scores from the 2020 evaluation and the 2023 reevaluation. The Parent points to no such requirement in the IDEA. Further, Ms. Valentine testified that she properly administered the tests and considered the test results in her assessment, and her opinion was accorded more weight on this issue as discussed previously. Although the District is required under WAC 392-172A-03025 to review existing evaluation data, nowhere does it require that different test results between different tests be somehow solved. Thus, the Parent's argument that the 2023 reevaluation was inappropriate because of unexamined discrepancies is insufficient to show the May 2023 reevaluation violated the IDEA or denied the Student FAPE.

A2. Did the reevaluation violate the IDEA by failing to accurately evaluate reading comprehension?

14. The Parent argues that the District's 2023 reevaluation did not accurately evaluate the Student's reading comprehension. The District successfully showed that Ms. Valentine administered the WIAT-4, a test which examines reading comprehension. No evidence was brought that the WIAT-4, or Ms. Valentine's administration of the test, was not sufficient to test the Student's reading comprehension. Further, the reevaluation looked at the Student's general education performance, standardized testing scores, and previous progress on IEP goals to further evaluate the Student's reading comprehension. As such, the evidence does not show that the reevaluation violated the IDEA in this regard.

A3. Did the reevaluation violate the IDEA by relying, in part, on invalid data?

15. The Parent contends the District's reevaluation was inappropriate because the District relied on invalid data. This appears to be in response to the reevaluation including information of the student's performance on the district-wide MAP test in 2019, where the Student scored in the 90th percentile. This argument is not persuasive, as this was only one of many data points considered in determining the Student's performance. There is no evidence that this one test swayed or was heavily relied upon by the District in the reevaluation. Further, the District is required to review existing evaluation data. If the District ignored all examinations of the Student's performance, simply because they did not comport with the District's understanding of the Student's needs, they would both be failing to meet their requirements under WAC 392-172A-03025 and generally subverting the purpose of the evaluation process.

A4. Did the reevaluation violate the IDEA by failing to identify all disabilities that might require specially designed instruction?

16. The Parent also contends the reevaluation is inappropriate because the District failed to identify all disabilities that might require SDI as required by WAC 392-172A-03020. The District was required to investigate the Student's abilities in writing and make a determination as to disability. Ms. Valentine conducted the KTEA-3 and WIAT 4 tests, examined the Student's past performance and diagnoses (including Dr. Marlowe's 2020 evaluation) and assessed disability as to writing. The District did not determine if the Student had dysgraphia, but did find that SDI was necessary in writing.

17. The Parent argues that the District failed to properly evaluate the Student's dysgraphia, as it knew or should have known this was a potential area of disability. While the District did not use the word "dysgraphia" in the reevaluation, there is insufficient evidence to find that the Student's needs were not assessed and accounted for, particularly in the face of the KTEA-3 and WIAT 4. Ms. Valentine included Dr. Marlowe's examination as well, which diagnosed the Student with a disorder of handwriting. It is clear the District complied with the requirement to evaluate in all areas of disability.

18. The Parent's argument appears to be primarily an issue of terminology. The Student was diagnosed with a specific learning disability by Dr. Marlowe in her 2020 evaluation. When examining a similar case of a district not using the word "dyslexia," the 9th Circuit has held that the category of specific learning disability was sufficient to show compliance with FAPE. *Crofts v. Issaquah Sch. Dist. No. 411*, 22 F.4th 1048 (9th Cir. 2022). Additionally, like in *Crofts*, there is no evidence suggesting a different assessment or evaluation specific to dysgraphia exists which would be appropriate in this matter.

19. "The Ninth Circuit made clear in *Timothy O.* that the failure to assess a student for a suspected disability is a 'fundamental procedural violation' that makes it 'impossible for the IEP Team to consider and recommend appropriate services necessary to address [a student's] unique needs.' 822 F.3d at 1119." (citing *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105 (9th Cir. 2016)). *Timothy O.* is worth mentioning as it deals specifically with a failure to diagnose autism. In fact, the parent in *Crofts* mentioned *Timothy O.*, along with two other cases specifically discussing autism, when trying to make an argument that the student at issue in *Crofts* was denied FAPE because the district did not evaluate dyslexia after a determination of specific learning disability. The full paragraph reads:

Crofts invokes three of our previous cases, *Amanda J. ex rel. Annette J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877 (9th Cir. 2001), *N.B. v. Hellgate Elementary Sch. Dist.*, 541 F.3d 1202 (9th Cir. 2008), and *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105 (9th Cir. 2016), to support her argument that the District failed to evaluate A.S. for suspected dyslexia in violation of 20 U.S.C. 1414(b)(3)(B). In all three cases, the defendant school districts failed to evaluate students for suspected autism. In *Amanda J.*, the district had information in its records indicating that the student may have had autism, but it did not assess her for the same and failed to disclose those records to her parents. *Amanda J.*, 267 F.3d at 893–95. In *Timothy O.*, the district was on notice that the student “displayed symptoms” of autism but did not evaluate him for it. *Timothy O.*, 822 F.3d at 1118–20. And in *Hellgate*, the district was on notice that the student “likely suffered from some form of autism” but failed to obtain its own evaluation and instead referred the student’s parents to an outside organization for testing. *Hellgate*, 541 F.3d at 1209. None of these scenarios is analogous to the District’s evaluation here because the District did evaluate A.S. for suspected impairments in reading and writing and considered the outside evaluator’s findings implicating dyslexia. The District’s evaluation is not deficient merely because it did not use the term “dyslexia” in the manner Crofts would have preferred. We therefore conclude that the District did not procedurally violate the IDEA when it found A.S. eligible for language-related services under the “specific learning disabilities” category rather than using the term “dyslexia.”

Crofts, 22 F.4th at 14

20. The Parent argues that the District failed to provide sufficient investigation into the Student’s dysgraphia. The record shows that the District considered Dr. Marlowe’s outside evaluation, tested in the areas of reading and writing that mattered to the Student’s dysgraphia as part of the KTEA-3 and WIAT 4, and recommended SDI in the areas of reading and writing. Thus, the Parent’s argument does not hold merit. This is not a situation where the District willfully denied disability; it is a squabble over terminology.

A5. Did the reevaluation violate the IDEA by using assessment results that were not reliably calculated or calculable?

21. The Parent argues that the reevaluation relied on assessment results that were not reliably calculated or calculable, as some of the assessments the District performed returned results that were not reliably calculable. There is no evidence the assessments employed by the District were insufficient to understand the needs of the Student. The District used standard and reliable tests, including the WISC-V, KTEA-3, WIAT-4, BASC-3, and BRIEF-2. These assessments were properly administered by Ms. Valentine, who is familiar in the administration of such tests. There was no evidence Ms. Valentine was not qualified to administer these tests.

22. That parts of particular assessments were unable to determine a specific score does not invalidate the entirety of the testing, particularly when they were supplemented by professional judgment. Further, the District has shown that it relied on additional evidence in making a determination of the Student's abilities, including classroom observations, the evaluator's professional opinions, the Student's grades and standardized test performance, and the Parent's input.

23. Thus, the District has shown that the consideration of results of the assessments were proper, and that if particular data points were not fully reliable, the overall outcome is still reliable due to multiple forms of testing and additional sources of information being relied upon.

A6. Did the reevaluation violate the IDEA by failing to determine whether, and the extent to which, the Student needed additional services or modifications to meet his annual goals?

24. The Parent argues that the District failed to determine whether the Student needed additional services or modifications to meet his annual goals. The record does not support this claim. The Parent argues an assistive technology assessment would have been necessary for the District to provide FAPE. There is no evidence in the record demonstrating that such an assessment was recommended or necessary. While it may have been helpful for the student to undergo an assistive technology assessment, there is no evidence that the reevaluation was inappropriate based on the lack of such an assessment.

25. The preponderance of the evidence shows that the 2023 reevaluation of the Student was appropriate. As such, the District did not violate the IDEA or deny the Student FAPE in regards to issues A1 through A5.

Appropriateness of May 2023 IEP (Issue B)

26. "Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, 580 U.S. 386, 399 (2017). The educational benefits flowing from an IEP must be determined from the combination of offerings rather than the single components viewed apart from the whole. See, e.g., *Karl v. Bd. of Educ. of Geneseo Cent Sch. Dist.*, 736 F.2d 873, 877 (2nd Cir 1984); *Palo Alto Unified Sch. Dist.*, 118 LRP 21969 (CA SEA 2018) (citing *J.M. v. New York City Dep't of Education*, 171 F. Supp. 3d 236, 247-48 (S.D.N.Y. 2016) ("An IEP must be considered as a whole; its individual parts cannot be judged in isolation.") Here, the question is whether the District has shown the IEP was appropriate as whole, rather than ideal in an individual aspect.

27. In developing a Student's IEP, WAC 392-172A-03110(1) requires the IEP team to consider: (a) The strengths of the student; (b) The concerns of the parents for enhancing the education of their student; (c) The results of the initial or most recent evaluation of the student; and (d) The academic, developmental, and functional needs of the student.

B1-B4. Did the May 2023 IEP violate the IDEA by failing to offer the Student challenging and meaningful goals? Did the May 2023 IEP violate the IDEA by failing to take into account the Student's baseline needs and then-present levels; failing to set measurable goals, or failing to set goals in the areas of need identified by the evaluation?

28. The Parent argues the May 2023 IEP goals were not challenging and meaningful and thus were not reasonably designed to convey meaningful benefit to the Student. Further, the Parent argues the IEP goals did not take into account the Student's baseline and then-present levels. The Parent then argues that the IEP failed to set measurable goals. Additionally, the Parent argues that the IEP was inappropriate as it failed to set goals in the areas of need identified by the evaluation. These arguments are best examined together by area.

29. When examining an IEP, the question is whether the program, at the time it was drafted, was objectively reasonable and designed to convey a "meaningful benefit" to the student. *Adams v. State of Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). Further, a student's IEP is required to include a statement of measurable annual goals designed to meet the needs that result from the student's disability. WAC 392-172A-03090(1)(b).

30. An IEP must contain a statement of annual goals, including academic and functional goals designed to meet the student's needs that result from his disability to enable him to be involved in and make progress in the general education curriculum and meet each of a student's other educational needs that result from the student's disability. WAC 392-172A-03090(1)(b)(i); 34 § CFR 300.320(a)(2). For students who take alternate assessments aligned to alternate achievement standards, the IEP must include a description of benchmarks or short-term objectives. *Id.* There must be a relationship between the present levels of performance and the goals and objectives. *Seattle Sch. Dist.*, 34 IDELR 196, 34 LRP 226 (SEA WA 2001). Goals must be stated with enough specificity that they are understandable and must be measurable in order to determine whether a student is making progress toward the goals.

31. The IDEA does not specify the number of goals that must be included in an IEP, but there should typically be at least one goal for each area of need. See, e.g., *Bellflower Unified Sch. Dist.*, 54 IDELR 66 (SEA CA 2010) (IEP deficient because it did not contain goals to address student's deficits in attending to group instruction); *Flagstaff Arts and Leadership Academy*, 113 LRP 27180 (SEA AZ 2013) (IEP deficient because it failed to provide goals to properly address basic reading, reading fluency, life skills, and other areas of need). An IEP need not contain every goal requested by a parent or recommended by the parent's experts. See *G.D. v. Torrance Unified Sch. Dist.*, 112 LRP 12078 (C.D. Cal. 2012) (IEP goals not inappropriate where the district included goals addressing the student's significant needs while excluding those it deemed unnecessary or not age appropriate).

32. The math goals in the 2023 IEP were designed after consideration of the Student's previous math goals, standardized testing results, classroom performance, and input from teachers and the Parent. The Student's goals were more advanced than the 2022 IEP goals, were built around multi-step calculations mixing the needs of the previous year into more complex scenarios. The goals considered the Student's performance levels and worked to improve upon them. Even daily progress reports were considered in drafting the goals. The math goals were measurable, aiming to improve the Student's multi-step calculations from 0% accuracy to 60% accuracy. The evidence does not show that the math goals were inappropriate.

33. The reading goals in the 2023 IEP were likewise based around previous evaluations, goals, and progress, and designed to help the Student make educational progress. The Student's goals were designed to increase the Student's reading fluency, in that they assessed accuracy of reading fluency via timed reading fluency assessments. The Student's target was to improve from 68 correct words per minute reading fluency to 93 correct words per minute for grade-level appropriate material. Parent cites to *William A. v. Clarksville-Montgomery Sch. Dist.*, 125 LRP 3627, No. 24-5591, *4 (6th Cir. 2025), where a Student's lack of progress was covered up by targeting reading fluency. In that case, a student was provided with accommodations that masked his needs to such a degree he was able to graduate high school without being able to read, despite the availability of programs which could specifically help him. *Id.* at *6. Here, there is no evidence the Student's goals in reading were designed to cover-up lack of progress. *William A* and the present case are not analogous and the Parent's reliance on it is misplaced.

34. The writing goals in the 2023 IEP were also built with the Student's previous performance and progress in mind. These goals are measurable, targeting an improvement from a score of 2/4 on written language targets to 3/4 based on a teacher-generated rubric when working on grade-level appropriate material.

Phonographic processing was assessed by the 2023 reevaluation of the Student and considered in the goals for the 2023 IEP. These goals were built after evaluating the Student's previous academic and IEP goal performance and were appropriate to the needs of the Student.

35. The Parent argues that the Student was functionally illiterate and completely incapable of forming a sentence when writing, and that thus the District's goals were inappropriate because the Student could not work on grade-level appropriate material. There is no evidence that the IEP goals ignored the needs of the Student just because they attempted to include appropriate grade-level materials. The Parent's argument is particularly unconvincing given the Parent submitted pages from the Student's handwritten journals, which did not reflect the illiteracy alleged. Regardless, the existence of grade-level appropriate curriculum as a portion of a Student's goals is not a showing that the IEP goals were inappropriate or not tailored to the needs of the Student.

36. Further, Dr. Marlowe argues the writing goals were not appropriate because the Student needed to focus on more fundamental writing skills. This does not demonstrate that the IEP goals in writing were inappropriate.

37. The Parent contends the IEP's social and behavioral goals were not appropriate as they were focused on the Student's behavior, rather than his neurobiological needs. Parent lists a number of social/behavioral issues described in the Student's 2023 reevaluation and argues that the IEP goals focused on "behaviors that bothered his teachers." However, the reevaluation recommends continued SDI in social/behavior skills, with "potential areas of focus being following teacher directions, transition from one activity to another independently, and increasing positive interactions with peers during group work." The 2023 IEP goals reflect this recommendation, targeting an increase on a rating scale from 1-of-4 to 3-of-4 in various social skills as rated by an observer as well as expressing disagreement neutrally from 20% of the time to 60%. The District's 2023 IEP social and behavioral goals are reasonably calculated for the Student to make educational progress and are based on the recommendations of the 2023 reevaluation.

38. The study skill and organizational skill goals of the 2023 IEP were designed based on the 2023 reevaluation's recommendations. The Parent argues that these goals do not address the Student's need for problem-solving skills. The goals, the Parent argues, are not sufficient as they do not reflect the Student's ADHD and executive functioning issues. There is no evidence in the record to support this claim. The reevaluation explicitly examined the need for executive functioning and the 2023 IEP targets relevant abilities and specifically discusses executive function as an area of interest in study and organizational skills.

39. The 2023 IEP included a statement of measurable annual goals designed to meet the educational needs of the Student. The goals were built around the Student's past performance, current capacity, and with future advancement in mind. Each goal was designed to offer a reasonable challenge to the Student. The Student's needs were considered and addressed in appropriate ways. The Parent argues that the goals are not without flaws, such as the potential to skip unknown words when testing reading fluency or not specifically stating what grade level each curriculum-based measure engages. However, the requirement is not that the goals be perfectly constructed to be without potential loophole or exploitation, but that they be designed to meet the needs that result from the Student's disability, which this IEP succeeds at.

40. "Vague goals and objectives without baselines or methods to objectively measure progress" are flaws in an IEP. *Anchorage Sch. Dist. v. D.S.*, 688 F. Supp.2d 883, 889 (D. Alaska 2009). The Parent argues that the goals in the 2023 IEP lack baselines or methods to objectively measure progress. In making this argument, the Parent points to the testimony of Dr. Marlowe, but does not identify a legal standard to base this upon. Multi-part goals may be appropriate, and in this case, the Parent has now shown that the IEPs multi-part goals are immeasurable.

41. A student's IEP must include a statement of the special education to be provided to the student to enable the student to advance appropriately toward meeting the annual goals, and to be involved in and make progress in the general education curriculum. WAC 392-172A-03090(1)(d). The May 2023 IEP includes SDI in reading, written language, math, social/behavior, and study/organizational skills. The SDI was designed to help the Student make progress on annual goals and general education curriculum. The Parent argues that these were not sufficient to meet these requirements, but offers only evidence of *better alternatives*. Evidence of the existence of potentially better alternatives is not evidence of a failure to meet the educational requirements of the IDEA. The District has shown its goals were appropriate.

B5. Did the May 2023 IEP violate the IDEA by failing to provide SDI in the use of accommodations?

42. The Parent argues that the IEP was inappropriate as it failed to provide SDI in the use of accommodations. This argument fails, as the only area of contention, text to speech, was demonstrated to be something the Student was trained in and capable of using. The District has successfully demonstrated the Student did not require SDI in the use of his accommodations to receive FAPE.

B6. Did the May 2023 IEP violate the IDEA by reducing the Student's SDI minutes despite the lack of progress on goals during the prior school year?

43. The Parent argues that the 2023 IEP is inappropriate because the Student's SDI minutes were reduced despite his failure to progress on goals during the prior year. The Parent argues that these reductions caused the Student to have insufficient SDI in reading, writing, and social/behavioral. This argument is unsupported by the evidence. The SDI minutes were determined based on a review of the Student's previous IEP goals, his current needs for instruction and adult support, and the amount of time needed to make progress on the 2023 IEP goals. It may seem facially reasonable to argue that a reduction in minutes is inappropriate when a student is not performing well, however, the amount of SDI was based off of numerous data points. The preponderance of the evidence shows the amount of SDI provided in the 2023 IEP was appropriate, despite it being reduced from the prior year.

B7. Did the May 2023 IEP violate the IDEA by failing to offer appropriate placement?

44. The Parent argues that the District failed to write an IEP that was sufficiently clear as to allow the Parent to make an intelligent decision as to agree, disagree, or seek relief, citing *S.H. v. Mt. Diablo Unif. Sch. Dist.*, 263 F.Supp.3d 746, 761 (N.D. Cal 2017). There is no evidence of this, and the IEP clearly defined each appropriate section of the Student's education, needs, accommodations, and all the factors present in considering placement.

45. Additionally, the Parent argues that she was not able to help sufficiently craft SDI, as the District ran out of time during the IEP meeting to review minutes, and thus the placement is insufficient. The Parent points to a follow-up email from May 18, 2023, where the District stated that SDI minutes were the only topic that was not reviewed *in detail* at the IEP meeting. The email requested the Parent respond with any questions. The Parent argues that she did not have an opportunity to agree or disagree, implying a "take it or leave it" attitude as discussed in *Ms v. Vashon Island School District*, 337 F. 3d 1115.

46. WAC 392-172A-02060 lays out the requirements for determining educational placement. To summarize the relevant requirements, the placement decision "shall be determined annually and made by a group of persons, including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options." WAC 392-172A-02060(1). The placement will be based on the Student's IEP, the least restrictive environment, the placement must provide a *reasonably high* probability of assisting the student to attain their annual goals, and consider potentially harmful effects on the student. WAC 392-172A-02060(2)(a)-(d) (emphasis added). The

student will be educated in the school they would attend if not disabled, unless the IEP requires otherwise. WAC 392-172A-02060(3). Finally, consistent with WAC 392-172A-05000 (3)(a), each school district must ensure that the parents of each student eligible for special education are members of any group that makes decisions on the educational placement of the student.

47. There is no evidence the District failed to offer an appropriate placement in the 2023 IEP. The District complied with requirements that the placement be determined annually, complying with WAC 392-172A-02060(1). The placement determination was based off the Student's least restrictive environment, was calculated to provide the Student with a reasonably high probability of attaining their goals, and considered the potentially harmful effects on the student.

48. The Parent's argument that the placement was improper due to insufficient time to review placement, namely the amount of SDI minutes, during the IEP meeting is also not persuasive. The email requested the Parent respond with any questions. The Parent replied to the email and stated she had no questions. The Parent contends this is evidence of an insufficient placement, rather than an attempt to make certain the District fully involved the Parent in planning and implementation of the IEP. The court disagrees, this email is evidence that the District took additional steps to fully review all material with the Parent and include her as fully as possible. This email shows that the District provided the Parent with additional opportunities for participation and disagreement. The Parent having no questions is not a failure of the District to include her in the IEP and placement process.

49. The District has shown it provided proper placement for the Student in the 2023 IEP.

50. The District has shown the IEP considered the strengths of the Student, considered the concerns of the Parent for enhancing the Student's education, considered the results of the most recent evaluation, and considered the academic, developmental, and functional needs of the Student. Further, the District has shown that the May 2023 IEP was appropriately designed and implemented so as to convey a meaningful benefit to the student per *Adams v. State of Oregon*, 195 F.3d 1141, 1149-50 (9th Cir. 1999.) The District has shown that the IEP was reasonable per *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, 580 U.S. 386, 399 (2017). The District has shown the IEP provided FAPE. None of the Parent's arguments show that the IEP was inappropriate, only that *better alternatives* may have existed, which is not the question before the court. For the above reasons, the 2023 IEP was appropriate.

Implementation of May 2023 IEP (Issue C and Issue D)

51. Material failures to implement an IEP violate the IDEA. On the other hand, minor discrepancies between the services a school provides and the services required by the IEP do not violate the IDEA. See *Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811 (9th Cir. 2007).

52. The District has shown it materially implemented SDI in math, written language, social/behavioral skills, and study/organization skills, in compliance with the 2023 IEP. The District has not shown it materially implemented reading SDI from October 5, 2023, through January 31, 2024. This is because the Student was routinely receiving about half of the instruction he was entitled to as part of his IEP.

53. Under *Lamar Consolidated Independent School District v. J.T.*, 122 LRP 33 (S.D. Tex. 2021), the Court examined if failure to implement an IEP for a portion of a year denied a student FAPE. In that case, for an entire semester, a district failed to implement a student's IEP. The Court determined that the entire year must be considered, even when an entire semester is lost:

"But statutory and regulatory provisions confirm that an IEP is intended to be implemented and measured with reference to a given academic year. For example, an IEP itself is usually developed for and pertains to an academic year as a whole, with the educational program recommended by the IEP designed to be implemented and monitored over the period of a full year. For example, see 20 USC § 1414(d)(1)(A)(i)(II) (IEP as "statement of measurable annual goals, including academic and functional goals"); 34 CFR § 300.320(a)(2) (same); see also 20 USC § 1414(d)(2)(A) (IEP to be in effect at "beginning of each school year"); 34 CFR § 300.323(a) (same). Indeed, the Supreme Court explains that a student's IEP sets out "annual goals designed to enable the child to be involved in and make progress in the general education curriculum." *Endrew F.*, 137 S Ct at 1000 (emphasis added). As such, academic and non-academic benefits must be weighed by 12 considering the entirety of a given academic year—here, the 2018–2019 academic year.

Lamar Consolidated Independent School District v. J.T., 122 LRP 33 (S.D. Tex. 2021), 11-12.

54. Like in *Lamar*, this case must be examined for the entire school year. Although the Student clearly lost out for three months of classes, during which the longest non-summer break of the year took place, the Student otherwise received proper SDI. By April 1, 2024, the Student had reached his IEP reading goal, suggesting the temporary lack of SDI was not a barrier to the Student's progression and success. In fact, the Student appeared to have surpassed the goal by approximately 25%, indicating he not only benefited from education, but benefited significantly from the reading goals he

was presented with. Thus, the District has shown that although it did not materially implement SDI for the 2023 IEP, the failure to do so did not deny the Student FAPE.

55. To the extent the Parent challenges whether staff were aware of what the Student's IEP required, the District has shown it complied with the WAC 392-172A-03105(3)(b)(ii) requirement to ensure staff are properly aware of IEP requirements. School districts are required to ensure that a student's teachers and service providers are informed in a timely matter of the specific accommodations, modifications, and supports that must be provided for the student in accordance with their IEP. WAC 392-172A-03105(3)(b)(ii). Here, Ms. DeCarufel fulfilled the District's obligations when she met with the Student's general education teachers and teaching assistants, and provided printed and digital copies of the Student's IEP and discussed the Student's needs.

56. The District has shown it complied with the requirements of the IEP. The Parent's arguments do not compel otherwise. Any failure to implement parts of the IEP did not deny the Student FAPE.

Appropriateness of May 2024 IEP (Issue E)

57. The May 2024 IEP must also be examined to determine if it was appropriate. The Parent contends that the 2024 IEP was inappropriate because it failed to include measurable IEP goals in reading decoding and math, repeated a written language goal from a prior IEP, placed the Student in general education for an inappropriate amount of time, and failed to provide coaching and training in social, behavioral, and executive functioning.

58. In developing a Student's IEP, WAC 392-172A-03110(1) requires the IEP team to consider: (a) The strengths of the student; (b) The concerns of the parents for enhancing the education of their student; (c) The results of the initial or most recent evaluation of the student; and (d) The academic, developmental, and functional needs of the student.

E1. Did the May 2024 IEP violate the IDEA by placing the Student in a general education environment for all but approximately one and a half hours per school day?

59. The Parent argues that the District violated the IDEA and denied Student FAPE because the 2024 IEP placed the Student in a general education environment for all but about 90 minutes per day. The Parent argues that the Student required far more time in a special education setting.

60. The Ninth Circuit has developed a four-part test, known as the *Rachel H.* test, to determine whether a student's placement represents the least restrictive environment:

We consider: (1) the academic benefits of placement in a mainstream setting, with any supplementary aides and services that might be appropriate; (2) the non-academic benefits of mainstream placement, such as language and behavior models provided by non-disabled students; (3) the negative effects the student's presence may have on the teacher and other students; and (4) the cost of educating the student in a mainstream environment. . . . The first factor requires us to analyze the educational benefits available to the child in a regular classroom, supplemented with appropriate aids and services, as compared to the educational benefits of a special education classroom.

Ms. S. ex rel. G v. Vashon Island Sch. Dist., 337 F.3d 1115, 1137 (9th Cir. 2003) (Internal quotation marks omitted; citations omitted); see also *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994) (introducing this test in the Ninth Circuit).

61. “While every effort is to be made to place a student in the least restrictive environment, it must be the least restrictive environment which also meets the child’s IEP goals.” *City of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1468 (9th Cir. 1996).

62. The Student’s placement in the 2024 IEP called for all but, approximately, one and a half hours of instruction in the general education setting. The IDEA’s LRE mandate requires school districts to provide a student with services in the general education environment “to the maximum extent appropriate.” WAC 392-172A-02050(1). Similarly, WAC 392-172A-02050(2) allows for education outside of the general education curriculum “only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

63. There is no evidence the Student’s placement was inappropriate in placing the Student in the general curriculum for all but about 90 minutes per day. The Student had made significant process in his reading goal, written language goal, and met some social/behavior goals. The Student’s grades were sufficient to show progress during the 2023 school year, with a good number of A’s and B’s. The Student kept advancing in the placement he was given. Further, there is no evidence that there would be any non-academic benefits to placing the Student in a more restrictive environment or that the Student’s presence in the general education environment had negative effects on the teacher or other students. There is also no evidence of a significant cost involved in educating the Student in the mainstream environment. Knowing this, changing the Student to a placement that included more time in a special education setting would not have been appropriate. The District has shown it complied with the IDEA in determining the Student’s least restrictive environment, and there is no evidence that the 2024 IEP’s placement was a denial of FAPE.

E2. Did the May 2024 IEP violate the IDEA by failing to include a measurable IEP goal for the area of reading decoding?

64. The 2024 IEP goal in reading addressed the Student's reading fluency on a grade appropriate level. The reading goal was for the Student to improve from 93 correct words per minute reading fluency to 120 correct words per minute reading fluency on timed reading fluency assessments, based on a 7th-grade reading level. The reading fluency goal was based on consideration of a myriad of assessments. This goal included timing and accuracy requirements. Although the goal is not designed specifically to track decoding, it considered the Student's needs and created a reasonable, measurable tests for getting the Student to evolve as a reader. There is no evidence in the record that a fluency-based goal was not appropriate for the Student. While alternative reading goals could also be appropriate for the Student, this does not demonstrate that the Student's reading goals were inappropriate.

E3. Did the May 2024 IEP violate the IDEA by failing to include a measurable IEP goal for the area of math?

65. The 2024 IEP goals in math were for the Student to improve math calculation from 40% to 80% accuracy for multi-step calculation problems and 40% to 80% accuracy for multi-step word problems. These are two distinct measurable goals.

66. The Parent argues that these goals were insufficient because "multi-step" is too vague of a term, as it could be any amount of calculation steps. Further, the Parent takes issue with the distribution of the types of operations in the multi-step calculations and "curriculum-based measure." This is not persuasive. Anyone can pick apart the exact language, but this is not broad or obfuscating terminology. The math goals were sufficiently clear and measurable as written.

67. Dr. Marlowe's testimony regarding these math goals is unconvincing. Although Dr. Marlowe may have identified weaknesses in the District's IEP goals, she has not identified any *failures* in the District's IEP goals. Instead, her testimony shows ways the IEP could be more carefully defined. The District has shown the IEP contained measurable IEP goals for math.

E4. Did the May 2024 IEP violate the IDEA by repeating a written language goal from the prior IEP?

68. The 2024 IEP effectively repeated the written language goal from the 2023 IEP. This is because the Student did not meet the goal in 2023, and Ms. DeCarufel wished to tailor the 2024 IEP goal to address a skill necessary to the Student's success in the seventh and eighth grade. Though the IEP goal for written language was very similar

between 2023 and 2024, this was done intentionally to target the Student's needs and develop their abilities in consideration of advancing the Student appropriately, rather than simply repeating the same goal for multiple years.

69. Here, although there is repetition between the 2023 and 2024 IEP, there is no showing that the goal in the 2024 IEP was inappropriate. In fact, the evidence shows that the needs of the student were considered, and the expectations were specifically tailored to aid the Student in progressing in the general education curriculum. The District has shown that the 2024 IEP goal for written language was appropriate.

E5. Did the May 2024 IEP violate the IDEA by failing to provide coaching and training in social, behavioral, and executive functioning skills?

70. The 2024 IEP included SDI in social/behavioral skills. The 2023 reevaluation suggested the Student receive SDI in social/behavior with "potential areas of focus being following teacher directions, transitioning from one activity to another independently and increasing positive interactions with peers during group work." In the 2024 IEP, the District set goals focused on improving interactions during group work. The Parent argues that this goal does not properly address the needs of the Student in regard to positive behavioral interventions as required by WAC 392-172A-03110(2)(i). WAC 392-172A-03110(2)(i) states that when considering factors unique to a student, the IEP team must "consider the use of positive behavioral interventions and supports, to address behavior, in the case of a student whose behavior impedes the student's learning or that of others." The Parent's argument is not persuasive. The requirement that the school consider positive behavioral interventions and supports generally to support behavior issues is not a requirement that the social/behavioral goals of an IEP specifically list positive behavioral interventions.

71. The 2024 IEP also included SDI in study/organization skills. The 2023 reevaluation found that the Student suffered from issues of executive function. In the 2024 IEP, the District set goals focused on executive function and self-advocacy. The District had identified significant issues around executive functioning, including self-managing tasks, self-monitoring performance, working memory, planning/organizing, task monitoring, and organizing materials. The 2024 IEP SDI is directly related to the evaluated needs of the Student. The District has shown the 2024 IEP did not violate the IDEA as to social/behavioral issues.

72. The Parent argues that the Student required coaching and training in social, behavioral, and executive functioning skills. The Student's 2024 IEP included accommodations to support Student's behavior, including frequent positive reinforcement of appropriate behavior, preferential seating where adults could provide

prompting for on-task behavior, and student-selected and adult-planned breaks. His IEP also provided accommodations to support his executive functioning skills, including access to a visual daily schedule, breaking assignments into small parts, prompting to review written directions for tasks, and reduction of visual distractions. The evidence does not support a finding that Student also required additional coaching and training in social, behavioral, and executive functioning skills.

Did the District Inappropriately penalize the Student for behaviors related to his disability? (Issue F)

73. The Parent argues that the Student was inappropriately penalized for behaviors related to his disabilities. The Parent contends that the Student was penalized for striking another student in retaliation to bullying. This is inconsistent with the evidence in the record. The Parent argues that when the District asked the Student to write a reflection paper, the District was cruelly targeting the Student and inappropriately disciplining him. This is inaccurate. The reflection paper was requested so that Ms. DeCarufel could later discuss matters with the Student, not as a form of punishment or discipline.

74. The Parent also contends the Student was being targeted for his disabilities when the Student was made to sit out of the first 15 minutes of a school dance for using ChatGPT. The record shows that the reason the Student was kept from the dance was that the Student turned in work he did not write bearing inappropriate content. The evidences does not support a conclusion that this action denied the Student a FAPE.

75. The Parent argues that the Student was inappropriately penalized for his disability when Ms. DeCarufel told the Student to shut his mouth. Though the Student may have been speaking out of turn due to his disability, and a teacher should not use that phrase with a student, a single instance of a teacher telling a Student to shut their mouth is not a pattern of abuse. There has not been a showing this denied the Student a FAPE.

76. On balance, the evidence in the record does not show the District violated the IDEA or denied the Student FAPE, regarding any of the actions discussed above. The District has met its burden regarding this issue.

Did the District fail to consistently provide the accommodations listed in the May 2024 IEP? (Issue G)

77. The Parent questions the Student's capacity to use the text to speech accommodations in his IEP. Although Dr. Marlowe stated the Student did not know how to use text to speech, the testimony of multiple witnesses with direct knowledge

showed that the Student did have the ability to use the technology, was instructed in it (as are all students), and was capable of coding and other high-level uses of technology. The evidence establishes the Student was more than capable of both using text to speech and generally navigating the tools available to him on the computer.

78. The Parent argues that the Student did not have access to his accommodations as his wi-fi was turned off. There is no evidence in the record that disabling the wi-fi on a laptop disabled the ability of the Student to use the text to speech feature or any other accommodation. The Parent's testimony that disabling the internet fully removed the Student's ability to access accommodations is not supported by the evidence.

79. The Parent has made painstaking argument that the Student was denied FAPE because the Student's laptop was either monitored or not under the Student's control at all times. This is not sufficient to show a denial of FAPE under *Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811 (9th Cir. 2007) or per *Lamar Consolidated Independent School District v. J.T.*, 122 LRP 33 (S.D. Tex. 2021). The District made certain the Student had the laptop when it was appropriate for class, but restricted it when it would have been inappropriate. The times the Student's laptop was removed did not interfere with the Student's abilities to complete assignments in class. When the Student did not have access to the laptop, the District provided staff to support the Student. The District also provided the Student with other laptops when it was appropriate to change the level of restriction the Student faced on devices.

80. Further, although text to speech was an accommodation available on the Student's laptop, the District also attempted to offer this accommodation through use of a tablet, which the Parent refused multiple times. Nowhere in the accommodations listed in the 2023 IEP or 2024 IEP does it state that the Student is required to use a *laptop* to receive his accommodation. The District needs to have the flexibility to implement the Student's accommodations, and the Parent refusing alternative offerings of that technology when the implemented strategy is not working is a refusal of services by the Parent, not a refusal to provide accommodations to the Student by the District. That any control had to be expressed is unfortunate, but ultimately, taking away the laptop when the student was using it for purposes other than his accommodation is not a denial of FAPE. The District has met its burden to show that it did not deny the Student FAPE or violate the IDEA.

Did the District fail to develop a safety plan for the 2023-2024 school year or otherwise fail to protect the Student from harassment? (Issue H)

81. In the Ninth Circuit, a three-part analysis applies to the determination of whether harassment or bullying constitutes a denial of FAPE. *M.L. v. Federal Way Sch.*

Dist., 394 F.3d 634, 650 (9th Cir. 2015), cert. denied, 454 U.S. 1128 (2015); see also *Kiona-Benton City Sch. Dist.*, 112 LRP 9581 (WA SEA 2012). A parent must prove 1) the student was the victim of bullying; 2) the school district was deliberately indifferent to the bullying; and 3) the bullying was so severe it caused the student to derive no educational benefit from the district's services. *M.L.*, 394 F.3d at 650.

82. In this case, the evidence does not establish that the bullying experienced by the Student constituted a denial of FAPE, that the District was deliberately indifferent to the bullying, or that the bullying was so severe it caused the Student to derive no educational benefit from the District's services.

83. At every moment of conflict, District staff worked to address the bullying. When the Student reported racist comments in January 2024, Ms. Gallagher reported this information to the appropriate administrative authorities. The Students were kept seated separately. Likewise, in April 2024, the Student reported racist comments to Ms. DeCarufel, who aided the Student in filing a report.

84. As soon as the HIB was filed on May 30, 2024, the District conducted an examination of the racist bullying and found that it took place. In response to the finding of racist bullying, the District implemented corrective actions, including putting additional staffing in the classroom and doing assigned seating. Prior to the conclusion of the investigation, the District implemented a safety plan to protect the Student.

85. The District acted to investigate the bullying the Student faced the same month the Parent set a meeting to discuss the bullying. This shows swift action by the District, followed by a confirmation of the bullying complete with remedy. Further, the District provided the Parent with the opportunity to appeal the District's decision in the HIB decision. This clearly shows the District was not indifferent to the bullying the Student faced and gave the Parent an opportunity to address any potentially unaddressed issues. The District worked to keep the Student and Student Alpha separated. This is clear evidence, not of indifference, but of concern tempered with action. Thus, the evidence does not support a finding that the District was deliberately indifferent to the bullying.

86. Additionally, the bullying was not so severe as to cause the Student to derive no educational benefit from the District's services. Racist bullying indeed took place here, impacting the Student's desire and preparedness to attend school, as well as the Student's identity and sense of self-worth. However, the Student's education continued, and the Student progressed as the year went on as evidenced by continuing classroom performance per the Student's report card. The Student continued to make progress on his IEP goals. Moreover, although some racist bullying took place, this was not a constant occurrence. Ms. Reeves did not observe the Student and Student Alpha

interacting during her classroom or using racist language, and only became aware during the May 8, 2024 meeting.

87. The Student's IEP did not reflect the bullying, because the IEP was drafted before the Parent brought the bullying to the District's attention, and the Parent did not raise this as an issue during the IEP meeting. The Parent did not request a modification to the Student's IEP after the bullying began, nor is there evidence a modification was required.

88. Because the evidence does not show that the school was indifferent to the bullying faced by the Student, and there is no evidence that the Student's bullying was so severe as to cause the Student to derive no benefit from the District's services, the evidence does not support a conclusion that the Student was denied FAPE due to bullying or harassment. Although the court is very sympathetic to the difficulty that Student Alpha's behavior raised and the emotional harm it caused the Student, the District has met its burden to show that it did not deny the Student a FAPE or violate the IDEA in regard to the bullying and harassment the Student faced.

Did the District fail to include the Parent in educational planning in Spring 2024? (Issue I)

11. Did the District violate the IDEA by failing to include the Parent in discussions and drafting of a safety plan in Spring 2024?

89. WAC 392-172A-03100 requires a school district to ensure that one or both of the parents of a student eligible for special education services are present at each IEP team meeting or are afforded the opportunity to participate. Parents must also have the opportunity to meaningfully participate in the development of IEPs. *H.B. v. Las Virgenes Unified Sch. Dist.*, 239 Fed. Appx. 342 (9th Cir. 2007). However, they do not have veto power over individual IEP provisions or the right to dictate any particular educational program. *Ms. S*, 337 F.3d at 1131; *Rowley*, 458 U.S. at 207.

90. Here, the Parent alleges that the District denied the Student a FAPE by failing to include the Parent in discussions, or drafting, of a safety plan or other measure to address the impact of bullying on the Student. This argument fails for two reasons. First, the Student's safety plan was not a part of an IEP or other special education support, and was not subject to WAC 392-172A-03100 or the IDEA, and thus the Parent's participation was not required under the IDEA. Second, the Parent was provided a copy of the safety plan, included in discussions about the safety plan, and given an opportunity to propose changes. Even if the safety plan were part of the IEP, the Parent was allowed to engage meaningfully in the process.

12. Did the District violate the IDEA by failing to notify the Parent before transferring the Student to a different classroom during observation?

91. The Parent also argues that the District denied the Parent reasonable participation in the educational process by failing to notify the Parent before moving the Student to another classroom on the day of Dr. Marlowe's first classroom visit. The Parent argues this was done intentionally to prevent Dr. Marlowe from observing the Student. There is no merit to the claim that the District attempted to avoid outside observation of the special education classroom. Ms. DeCarufel had to address matters with another student in crisis and the Student was moved, which was a typical practice. Dr. Marlowe had other opportunities to observe and did not do so again until January, 2025. The Parent was able to observe the Student and did so. A single emergency action does not render all participation moot, nor does it indicate any pattern of behavior on the part of the District to obfuscate the Student's learning.

Is the Parent entitled to requested remedies? (Issue J)

Request for Remedies:

92. The Parent argues they should be reimbursed for the cost and expense of the June 2024 Independent Evaluation by Dr. Wendy Marlowe, because the 2023 reevaluation was improper, violated the IDEA, and denied the Student FAPE. The Parent further argues that the 2023 and 2024 IEPs were inappropriate, violated the IDEA, and denied the Student FAPE, and as such the Student should be placed at Morningside Academy at District expense for the summer of 2025, as well as the 2025-2026 and 2026-2027 school years; that the Parent should be reimbursed for tutoring tuition at Huntington Learning Center; and that the Student should receive 240 hours of compensatory education at Huntington Learning Center. Further, the Parent argues because the 2023 reevaluation was inappropriate, that the Parent is entitled to a new IEP meeting to consider IEE results, update the IEP, and determine if additional partial reevaluation is necessary for occupational therapy or assistive technology, with Dr. Marlowe present and at District's expense. Finally, the Parent argues that the Student's supplementary services should be updated.

93. Parents who unilaterally enroll a student in a private school are entitled to reimbursement only if: (1) the district placement violated the IDEA; and (2) the Parents' private school placement is "proper" under the IDEA. *Florence County Sch. Dist. v. Carter*, 510 U.S. 7, 15, 114 S. Ct. 361 (1993). Once a district fails to develop an IEP that makes FAPE available, the proper private placement need only confer some educational benefit to the student. *C.B. v. Special Sch. Dist. No. 1*, 56 IDELR 187 (8th Cir. 2011); and *Warren G. v. Cumberland County Sch. Dist.*, 31 IDELR 27 (3d Cir.

1999). A private school placement does not need to maximize the student's potential or provide every special education service and support she needs to be deemed proper or "appropriate" for reimbursement purposes. See, e.g., *C.B. v. Garden Grove Unified Sch. Dist.*, 56 IDELR 21 (9th Cir. 2011), cert. denied, 111 LRP 68912, 132 S. Ct. 500 (U.S. 2011). A unilateral private placement is "appropriate" for reimbursement purposes if it offers instruction that is specially designed to meet the student's unique needs as well as the support services the student requires to benefit from that instruction. *M.N. v. State of Hawaii, Dep't of Educ.*, 60 IDELR 181 (9th Cir. 2013, unpublished). A private placement does not need to satisfy the IDEA's least-restrictive environment requirement to be proper under the Act. *C.B. v. Special Sch. Dist. No. 1*, 636 F.3d 981, 991 (8th Cir. 2011).

94. Parents who unilaterally change their child's placement do so at their own financial risk. *Burlington v. Dep't of Ed. of Mass.*, 471 U.S. 359, 374 (1985). The Supreme Court explained that reimbursement for a private placement is allowed because Congress could not have intended to require parents to either accept an inadequate public-school education pending adjudication of their claim or bear the cost of a private education. *Id.* at 370.

95. If a district shows its placement was appropriate, the analysis ends and the parent is not entitled to public funds for privately obtained services. See, e.g., *Burilovich v. Bd. of Educ.*, 208 F.3d 560, 572 (6th Cir. 2000) (denying reimbursement for home-based program because district's IEP was appropriate); *M.C. v. Voluntown Bd. of Educ.*, 226 F.3d 60, 66 (2d Cir. 2000) ("Only if a court determines that a challenged IEP was inadequate should it proceed to the second question.")

96. In this case, the District has shown that the placement offered in both the 2023 IEP and the 2024 IEP were appropriate and did not deny the Student FAPE. As such, no further analysis is necessary. The Parent is not entitled to placement of the Student at Morningside Academy at public expense. Similarly, the Parent is not entitled to reimbursement for the cost of tuition at Huntington Learning Center and the Student is not entitled to 240 hours of compensatory education at the Center.

97. Similarly, the District has shown the 2023 reevaluation was appropriate, did not violate the IDEA, and did not deny the Student FAPE. The Parent is not entitled to any remedies for this alleged violation.

98. Because the District has demonstrated it did not violate the IDEA or deny the Student FAPE, the Parent is not entitled to any remedies.

ORDER

The Seattle School District has proven by a preponderance of the evidence that it did not violate the IDEA or deny the Student FAPE in regard to the issues in this case. As such, the Parent is not entitled to any requested remedies.

SERVED on the date of mailing.



Niles McDonald
Administrative Law Judge
Office of Administrative Hearings

Right To Bring A Civil Action Under The IDEA

Pursuant to 20 U.S.C. 1415(i)(2), any party aggrieved by this final decision may appeal by filing a civil action in a state superior court or federal district court of the United States. The civil action must be brought within ninety days after the ALJ has mailed the final decision to the parties. The civil action must be filed and served upon all parties of record in the manner prescribed by the applicable local state or federal rules of civil procedure. A copy of the civil action must be provided to OSPI, Legal Services, PO Box 47200, Olympia, WA 98504-7200. To request the administrative record, contact OSPI at appeals@k12.wa.us.

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that true copies of this document were served upon the following as indicated:

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Dated April 23, 2025, at Olympia, Washington.

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