

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Docket No. 10-2024-OSPI-02383

Evergreen School District

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

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2024-SE-0142

A due process hearing was held before Administrative Law Judge (ALJ) Paul Alig on March 3 – 6 and March 12, 2025. The Parent of the Student whose education is at issue¹ appeared and was represented by Mary Griffin, attorney at law and Amanda Beane, attorney at law. The Evergreen School District (District) was represented by Kevin O'Neill, attorney at law and Ida Donohue, attorney at law. Also present for the District was Matthew Bennett, Director of Student Services.

STATEMENT OF THE CASE

Procedural History

On October 14, 2024, the Parent filed a due process hearing request (complaint). On October 24, 2024, the District filed its response to the complaint. On December 3, 2024, a prehearing conference was held. On December 4, 2024, a prehearing order was issued identifying the issues for hearing and scheduling the hearing to begin March 3, 2025. On February 3, 2025, the District filed a motion for partial summary judgment. On February 14, 2025, the Parent filed her response to the motion. On February 18, 2025 a motion hearing was held and on February 25, 2025, the District's motion was denied. On February 26, 2025, a readiness conference was held with both parties.²

Motion to Amend

On March 12, 2025, the fifth and final day of hearing in this case, the Parent moved to amend her complaint to allege that the District failed to implement the Student's individualized education program (IEP) during the 2023-2024 school year

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

² See, Prehearing Order issued December 4, 2024; and Order on Summary Judgment dated, February 24, 2025.

by not delivering services in the special education classroom consistent with his IEP. The Parent stated that it was not until the testimony was provided at hearing that she became aware of the extent that the Student's special education services were being delivered in the general education classroom, rather than in the special education classroom as required by the IEP. The Parent wished to request compensatory education for the alleged failure to implement the IEP. The District objected to the Parent's request to amend her complaint. The District relied on Washington Administrative Code (WAC) 392-172A-05085(6)(b). This rule provides that the ALJ "may only grant permission to amend not later than 5 days before the due process hearing begins." Because the Parent made her request to amend her complaint after the hearing began, her request was denied.

Due Date for Written Decision

As set forth in a previous order, the due date for a written decision in this case is thirty (30) days after the record of the hearing closes. The record closed on May 21, 2025, the due date for the parties' post-hearing briefs. Accordingly, the due date for a written decision is June 20, 2025.³

EVIDENCE RELIED UPON

Exhibits Admitted:

District's Exhibits: D1-D48

Parent's Exhibits: P10, P14, P15, P17, P23⁴-P25

Witnesses Heard (in order of appearance):

- Alisa Coats-Clemans, District School Psychologist
- Shelly Brands, District Special Education Teacher
- Amy Vesneske, District Special Education Teacher
- Sierra Rivers, District General Education Teacher
- Kristian Heiss, District Paraeducator
- Cassandra Wally, Student's Board-Certified Behavioral Analyst (BCBA)
- Kathryn Price, Clinician, Catholic Community Services (CCS)
- Denise Rossi, District BCBA
- Geni Donaghey, District Speech Language Pathologist (SLP)

³ Order Setting Due Date for Post-Hearing Briefs dated March 13, 2025.

⁴ Exhibit P23 was admitted as an Excel Spreadsheet. Therefore, specific page numbers are not identified for this exhibit.

- Matt Hill, District Principal
- Matthew Bennett, Director of Special Education
- Parent

ISSUE AND REQUESTED REMEDIES

1. The issue and requested remedies for the due process hearing are:
 - a. Whether the District violated the Individuals with Disabilities Education Act (IDEA) and denied the Student a free appropriate public education (FAPE) beginning April 8, 2024, through June 17, 2024 by not providing the Student with a safer school placement with more physical safeguards and therapeutic supports than his current elementary school, Crestline Elementary School, based on the Parent's allegations that he:
 - i. Eloped fifteen times from the building from the middle of February 2024 through the middle of June 2024;
 - ii. Crossed the street in front of cars;
 - iii. Engaged in dangerous behavior; and
 - iv. Is verbally threatening to elope.
 - b. And, whether the Parent is entitled to her requested remedies:
 - i. An order placing the Student in therapeutic day treatment school such as the District's Hollingsworth Academy or similar day treatment school;
 - ii. Compensatory education for the specially designed instruction (SDI) that the Student did not receive from the beginning of this school year on August 27 through the date of the order, encompassing all of the SDI to which the Student was entitled in the 2024-2025 school year. As of the date of filing, the appropriate award would be 95 minutes of specially designed instruction× 33 school days missed thus far of this school year = 3,135 minutes or 52 hours of compensatory SDI. These minutes should be delivered 1-to-1 (1:1) by a special education teacher to allow the Student to catch up to where he would be but for the District's denial of FAPE; and
 - iii. Or other equitable remedies, as appropriate.

FINDINGS OF FACT

1. The Student lives with the Parent and 3 siblings. He is affectionate, loving, and intelligent. At all relevant time periods he was a resident of the District.⁵
2. The Student was initially evaluated for special education during the 2020-2021 school year. He was in first grade and attended Marrion Elementary School within the District. The evaluation was conducted by Alisa Coats-Clemans, District School Psychologist assigned to Columbia Valley Elementary School (Columbia Valley).⁶ The Student was found eligible under the category of Other Health Impaired based on having a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD). The Student's evaluation team determined he required SDI in the areas of social/emotional skills, reading, writing, and math.⁷
3. During the 2022-2023 school year, the Student attended Columbia Valley within the District. He was in the third grade. The Student struggled with his behavior while at Columbia Valley. His mother described his behavior as running the school like it was his biggest playground. He was also having behavioral problems at home. Due to his difficulties at home, the Parent began working with Wraparound with Intensive Services (WISe) through Catholic Community Services - Family Behavioral Health (CCS). WISe agencies provide wraparound services in the community. This includes services such as parent coaching, individual and family counseling, and assistance to accessing other services for the family.⁸
4. On March 27, 2023, members of the Student's IEP team met to review his behavior intervention plan (BIP).⁹ The meeting included Deborah Rossi, a District BCBA.¹⁰ The Director of Special Services, Matthew "Matt" Bennett, also attended the

⁵ Parent T957:15. Citations to the hearing transcript indicate who provided the testimony followed by the page number(s) and line(s) on which the testimony appears. For example, a citation to Parent T957:15 is a citation to the Parent's testimony at page 957 line 15 of the transcript.

⁶ In 1994 Ms. Coats-Clemans obtained a Master of Science in Psychology from Lewis and Clark College. In June of 1989 she received a Bachelor of Science in Psychology from Willamette University. She has worked as a school psychologist for 28 years. She has worked in this position with the District since 2007. Coats-Clemans T57:19-58:12.

⁷ D3pp1-6; Coats-Clemans T63:3-25, Parent T958:20. Citations to the exhibits of record are by the party ("P" for Parent; "D" for District) and exhibit and page numbers. For example, a citation to D3pp1-6 is a citation to District exhibit 3 pages 1 through 6.

⁸ P17p7; Parent T961:9.

⁹ D4pp1-9; Brands T158:11.

¹⁰ In August 2012, Ms. Rossi received her Master of Arts in Education degree from Arcadia University. In January 2005, she received her Bachelor of Science degree from Temple University. Ms. Rossi has worked for the District since July 2016 as a BCBA. From July 2014 through June 2016, she worked as a BCBA for Autism Behavioral Consulting. Prior to that, she was a behavior consultant and field specialist for Quinn Developmental Services in Philadelphia. D46pp1-3; Rossi T664:3.

BIP meeting.¹¹

5. The BIP identified target behaviors in physical aggression, verbal aggression, elopement, physical impulsivity, and low-level refusal. Physical aggression was defined as posturing (getting too close, raising fist as if to hit, raising leg as if to kick), threatening to hit, hitting, shoving, punching, kicking, throwing items or furniture, and spitting. Elopement was defined as jumping on counters or furniture in the presence of peers and staff not including recess or sensory space, accessing off limits areas, climbing up the outside of the stairs, eloping/running through the building, hiding from adults, and leaving the building or campus without permission. The plan identified replacement behaviors to be taught using prosocial behaviors to get attention, request a break and accept refusals. Among the prevention measures listed in the BIP were use of a daily schedule, building rapport with staff, building up to challenging tasks, providing the Student opportunities to help in the classroom, and consistent communication with the Parent. Interventions included assigning staff who have a relationship with the Student to work with him when precursors were identified, using simple prompts for redirection, remaining calm, and providing space to process. Restoration steps included having the Student participate in any clean up, reminding him that school staff care for him, and repairing relationships using restorative conversations. The BIP recommended daily data collection.¹²

6. On June 5, 2023, the District convened the Student's IEP team. The Parent participated in this meeting. The meeting was arranged due to the Parent's concerns about the Student sleeping during class time and missing academics. Other concerns were the District's practice of searching through the Student's backpack, and his negative behaviors. The Parent was also concerned about the lack of daily communication with her. She requested a change of the Student's placement to a day treatment school. The Parent shared that the Student had recently been diagnosed with Autism through Oregon Health Sciences University (OHSU).¹³

7. The IEP team noted the Student's diagnoses of ADHD – combined type, Generalized Anxiety Disorder, Asthma, and Seizure disorder. His general education teacher reported that he had not engaged in academics in the general education

¹¹ In 2019, Mr. Bennett received a doctorate in educational leadership from the University of Michigan. In 2008 he was awarded an education specialist certificate in Directorship of Special Education from Wayne State University. In 2005, Mr. Hill obtained a master's degree in special education from the University of Michigan. In 2001 he received a Bachelor of Arts degree from the University of Michigan. He has been employed as a Director of Special Education for the District since August 2021. Prior to joining the District, he worked as the Director of Special Education for the Reynolds School District in Oregon and also worked in special education administration in California. In total, he has 22 years of experience working with students with disabilities. Bennett T878:13-880:9.

¹² D4pp7-10; Coats-Clemans T66:14.

¹³ D5p7; Coats-Clemans T65:2; Parent T964:12.

setting since the beginning of November due to his behavior. In the area of social/emotional skills, the IEP team noted the Student was struggling. He wanted to be in class with his peers but was not sure how to maintain personal relationships. He did not understand when other students did not want to be around him. In the area of behavioral skills, he would hit, kick, and push peers and adults. He would throw objects at or swing objects near peers and adults. He would leave his classroom to play in the bathroom or wander around the school or the playground. At times he would elope into the parking lot, pick up large sticks, and use the sticks as weapons.¹⁴

8. The IEP team identified the following annual goals and short-term objectives for these goals:

- A social / behavioral skills goal in requesting a break as a stress reduction strategy; beginning from being unable to demonstrate the skill and progressing to doing so 4 times out of 5.
- A social / emotional skills goal that the Student would state why he got along with a chosen peer; improving from 0 times out of 5 to 4 times out of 5.
- An adaptive skills goal that provided that when given an academic task to complete during whole group instruction the Student would progress from 5 minutes to ten minutes in 4 out of 5 tasks.
- A behavioral skills goal that the Student would brainstorm at least 3 positive strategies for handling conflict with a specific person; improving from a baseline of zero to 4 times out of 5.
- A math goal that when given 5 addition and/or subtraction problems within 500 the Student would select a strategy to solve the problems with 80% accuracy; improving place value and understanding properties of operations to perform multi-digit computations from a baseline of zero for 2 out of 3 problem sets to 4 out of 5.
- A written language goal that provided when given a grade level draft text with 3 capitalizations, punctuation and spelling errors, using a dictionary; the Student would edit the sentences to apply grade-level conventions improving from a baseline of zero to 2 times out of 3.¹⁵

¹⁴ D5pp8-11; Coats-Clemans T66:19.

¹⁵ D5pp10-14; Coats-Clemans T66:4.

9. The IEP team identified the Student's placement as 80% -100% in general education. The IEP team identified the Student would receive special education services as follows:

Services 06/08/2023 - 03/29/2024

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Special Education							
No	Social/Emotional Skills	General Education Teacher	Special Education Teacher	20 Minutes / 5 Times Weekly	General Education	06/08/2023	03/29/2024
No	Math	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	06/08/2023	03/29/2024
No	Reading	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	General Education	06/08/2023	03/29/2024
No	Written Language	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	06/08/2023	03/29/2024
No	Adaptive Skills	Special Education Teacher	Special Education Teacher	20 Minutes / 5 Times Weekly	General Education	06/08/2023	03/29/2024
Yes	Social/Behavioral Skills	Special Education Teacher	Special Education Teacher	25 Minutes / 5 Times Weekly	Special Education	06/08/2023	03/29/2024
No	Behavioral Skills	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	General Education	06/08/2023	03/29/2024

Total minutes per week of building instructional time available for this student (excluding lunch):

1715 minutes per week

Total minutes per week student is served in a special education setting:

300 minutes per week

Percent of time in general education setting:

82.51% in General Education Setting

The IEP team determined the Student's SDI in social/behavioral skills would be concurrent with the SDI he received in academics in the special education classroom.¹⁶

2023-2024 School Year

10. Beginning, October 9, 2023, the Student transferred to Crestline Elementary School (Crestline) in the District. The Student was in the 4th grade.¹⁷ The Principal of Crestline was Matt Hill.¹⁸ The Student's assigned special education teacher was Shelly

¹⁶ D5pp18, 19; Coats-Clemans T66:10.

¹⁷ Coats-Clemans T64:20.

¹⁸ In 2003 Mr. Hill obtained a Master of Arts in Curriculum and Instruction. In 1998 he obtained Bachelor of Arts degrees in General Education and Special Education. He received his Principal Certification in 2008. He began working as a Principal on July 1, 2023. Prior to that he worked as a Director of Special Services for the District for two years and also held teaching and administrative positions. Hill T790:25-792:16.

Brands.¹⁹ The Student's assigned SLP was Geni Donaghey.²⁰ The Student's assigned general education teacher was Sierra Rivers.²¹

11. The Student and his family continued to work with the CCS WISE program throughout the 2023-2024 school year.

12. By December 8, 2023, the Student was on task when working toward his adaptive skills goals 3 out of 5 times when in physical education, music, library and in his special education classes. In his general education classes, he remained on task 1 time out of 5. In his behavioral skills goal, with the support of a scribe, he identified 3 positive strategies to handle conflict with peers at school. In math he had reached 100% accuracy on his single digit addition and subtraction goals and required a new IEP goal. In written language skills, the Student had moved from a baseline of zero to 25% toward his goal of correcting convention areas.²²

13. On December 14, 2023, members of the Student's IEP team met to continue an IEP meeting that began December 5, 2023. Included on the team were Ms. Coats-Clemans, Ms. Donaghey, Ms. Rivers, Ms. Brands, Mr. Hill, a District Occupational Therapist (OT), a District Special Services Coordinator and the Parent. The team conducted a reevaluation and functional behavioral assessment (FBA). The FBA identified target behaviors of physical and verbal aggression, elopement/physical impulsivity and low-level refusals. Based on daily data collected from October 9, 2023 through the date of the FBA, the Student showed a range of 0 to 48 incidents of physical aggression per day, averaging 4.6 per day. He showed a range of 0 to 29 incidents of eloping per day, averaging 6.7 per day. The FBA team hypothesized that the Student may engage in physical aggression or elopement when he is denied access to a desired activity, location, or item; experiences a perceived injustice; is presented with a challenging or non-preferred task; or is not receiving sufficient adult attention.²³

¹⁹ In January 2018, Ms. Brands obtained Bachelor of Arts degrees in Special Education and General Education. She has worked as a special education teacher for the District for four years at several different schools. During the 2023-2024 school year she was assigned to Crestline. Brands T154:13.

²⁰ In 1999, Ms. Donaghey received her Master of Arts degree in Communication Disorders and Sciences, and bachelor's degrees in the same fields in 1996. She has Educational Staff Associate SLP certification from the State of Washington. She a certificate of clinical competence from the American Speech-Language-Hearing Association (ASHA). Since 2000, she has worked as an SLP provider for the District. Donaghey T756:13.

²¹ Ms. Rivers obtained her Master of Arts degree in Elementary Education at Lewis and Clark college with a specialization in teaching speakers of other language. She received her bachelor's degree from the University of Washington in Sociology and Spanish. She has been an elementary school general education teacher for the District for 7 years beginning at Columbia Valley and the last 4 years at Crestline. Rivers T403:5-25.

²² P10pp12-15; Coats-Clemans T131:14.

²³ D7pp6-14; Coats-Clemans T67:16, 69:1-72:11, Brands T160:24-16.

14. As a result of the reevaluation, the Student was found eligible to receive services in the area of communication. In addition, he continued to remain eligible in the areas of adaptive skills, social/emotional skills, reading, written language, and math.²⁴

15. Kristian Heiss was assigned to be the Student's 1:1 paraeducator. She was trained by the District in Ukeru strategies.²⁵ The use of Ukeru strategies was included in the Student's BIP. Ukeru is a trauma informed intervention. It is a restraint free philosophy. An element of Ukeru is providing the Student choices, comforting statements, and time to process his decisions. Ukeru uses light padded matts (Ukeru pad) to block and prevent the Student from hitting, kicking or striking others. It also prevents him from injuring others with thrown objects. Ukeru uses "safe turns" to redirect the Student when facing him from the front or the side without putting hands on him. All staff that worked with the Student were trained in Ukeru practices. Staff assigned to the Student kept their Ukeru pads with them at all times so that they could use them any time the Student escalated. Because use of the Ukeru pads were normalized at school, the Student did not feel intimidated by their presence or use.²⁶

16. On January 4, 2024, the District convened the Student's IEP team. Dr. Bennett, Ms. Rivers, Ms. Brands, Mr. Hill, Ms. Coats-Clemans, Ms. Donaghey, Ms. Rossi, the Special Education Coordinator, the Parent, the CCS WISE clinician, and a CCS WISE Clinical Care Coordinator participated in these meetings. Ms. Rivers reported that the Student was able to stay in the general education classroom 25% of the time when receiving adult support. With 1:1 support, he was most able to participate in academics activities. As he developed relationships with peers and his general education teacher, he could stay in the classroom longer.²⁷

17. On February 5, 2024, the IEP team met again and revised the Student's annual goals as follows:

- **Social / emotional skills regarding using a schedule:** with a prompt and use of an interactive visual schedule the Student would improve his self-management skills from 1 in 4 opportunities with adult support to 3 out of 4 times.
- **Social / emotional skills regarding record changes in emotions throughout the day:** using an emotion tracking sheet, the Student would identify 1 emotion felt

²⁴ D6p36; Coats-Clemans T68:16, Brands T159:10.

²⁵ Ms. Heiss began working as a paraeducator at Marion Elementary School in the District in January 2023. During the 2023-2024 and 2024-2025 school years she worked at Crestline. Heiss T469:5, 477:4.

²⁶ D9pp1-4, D10pp4, 5; Coats-Clemans T60:10, Bennett T807:18, Rossi T687:8, Brands T200:201:2.

²⁷ Rivers T418:16.

during 2 school activities (verbal or written), to improve his self-awareness skills, from identifying 1 emotion felt in 4 opportunities to 3 emotions felt in 4 opportunities.

- **Adaptive skills regarding accepting changes in routine:** when given unexpected change that occurs in the regular daily schedule and given a verbal prompt to use a familiar positive self-regulation strategy; the Student would calmly transition to the new activity by using a positive self-regulation strategy, to improve from 1 out of 4 opportunities, to 3 out of 4 opportunities.
- **Math skills regarding 2-digit addition:** when given 2-digit addition problems the Student would solve the problem using a place value strategy to improve his math problem solving skills, from solving single digit addition problems with 71% accuracy, to solving 2-digit addition problems with 75% accuracy.
- **Math skills regarding 2-digit subtraction:** when given 2-digit subtraction problems; the Student would solve the problem using a place value strategy to improve from solving single digit subtraction problems with 83% accuracy, to solving 2-digit addition problems with 75% accuracy.
- **Reading skills regarding comprehension:** the Student would improve his reading comprehension skills, from listening to a text and orally answering a question 1 in 4 opportunities, to reading an instructional-level text and underlining the supporting evidence 3 out of 4 opportunities.
- **Reading skills regarding decoding 1-syllable words and vowel teams:** when given a written word list of 20 1-syllable words that contain a variety of vowel terms the Student would improve his phonic skills from decoding consonant, vowel, consonant (CVC) words with 100% accuracy, to decoding a word list of 1 syllable words with 80% accuracy.
- **Written language goal regarding paragraph writing:** working at grade level the Student would improve his writing skills, from writing a sentence in 1 out of 4 opportunities to 3 out of 4 opportunities.
- **Communication goal regarding receptive language:** when given a set of related pictures or objects the Student would demonstrate understanding of how the items were related (category, function, size) improving his receptive language skills from 25% accuracy to 80% accuracy.
- **Communication goal regarding expressive language:** when given a pictured scene and asked to describe it the Student would produce complete sentences

using correct grammar including conjunctions improving his expressive language skills from 30% accuracy to 80% accuracy.

- **Communication goal regarding pragmatics:** when given a picture of a person showing an emotion the Student would identify the emotion and explain how they know (context, facial expression, body language) improving his pragmatic skills from 20% to 70% of opportunities.²⁸

18. The IEP team identified the Student's placement as 40%-79% in general education. The Student was to receive 150 minutes weekly each for reading, writing, and math in a special education classroom, totaling 450 minutes per week, "to build academic skills, his work stamina, and confidence to be able to complete academic tasks in the general education classroom."²⁹ The IEP included accommodations for statewide and districtwide assessments.³⁰

19. The IEP team identified the Student would receive special education and additional adult support as follows:³¹

Services 02/08/2024 - 01/03/2025

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Special Education							
No	Adaptive Skills	Staff Assistant	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	02/08/2024	01/03/2025
No	Math	Staff Assistant	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	02/08/2024	01/03/2025
No	Reading	Staff Assistant	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	02/08/2024	01/03/2025
No	Written Language	Staff Assistant	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	02/08/2024	01/03/2025
No	Social/Emotional Skills	Staff Assistant	Special Education Teacher	20 Minutes / 3 Times Daily	General Education	02/08/2024	01/03/2025
No	Social/Emotional Skills	Staff Assistant	Special Education Teacher	45 Minutes / 5 Times Weekly	General Education	02/08/2024	01/03/2025
No	Communication	Speech-Language Pathologist	Speech-Language Pathologist	30 Minutes / 1 Times Weekly	Special Education	02/08/2024	01/03/2025
Related							
Yes	Additional Adult Support	Additional Adult Support	Special Education Teacher	120 Minutes / 5 Times Weekly	Special Education	02/08/2024	01/03/2025

Total minutes per week of building instructional time available for this student (excluding lunch):

1715 minutes per week

Total minutes per week student is served in a special education setting:

630 minutes per week

Percent of time in general education setting:

63.27% in General Education Setting

²⁸ D8pp7-17; Coats-Clemans T74:24, Brands T164:17.

²⁹ D8p23; Coats-Clemans T75:12.

³⁰ D8p20; Coats-Clemans T117:12.

³¹ D8p23; Brands T165:10.

Supplementary Aids and Services:

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
No	Additional Adult Support	Additional Adult Support	Special Education Teacher	139 Minutes / 1 Times Weekly	General Education	02/08/2024	01/03/2025
No	Additional Adult Support	Additional Adult Support	Special Education Teacher	244 Minutes / 4 Times Weekly	General Education	02/08/2024	01/03/2025

20. During the IEP meetings on January 4, 2024, and February 5, 2024, the team reviewed the Student's current behavioral data to consider updates to his BIP. The team added to the Student's prevention strategies the use of a visual schedule that breaks the day down into sections with expectations for each section and gives the Student options during each section. The schedule was to ensure specific durations for each section of the day. Timers were to be utilized for all activities. Validating language was to be used such as "I hear" or "I see" when the Student was showing staff how he feels. To specifically prevent elopement, the BIP stated the Student should have designated locations inside and outside the building for when he needed space.³²

21. If the Student eloped, the BIP provided that staff would keep him safe. They were to use Ukeru strategies and have Ukeru pads with them throughout all elopements. The were to use Ukeru pads to block the Student's access to items or locations that may be unsafe. If the Student were to move through the building, staff were to radio for additional support and staff to maintain close proximity to the Student. If the Student were to leave the building, staff were to contact administration. During an elopement, staff were to encourage the Student to go to a safe location and if he continued to run to follow him to keep him safe. A lead staff member would be the only person providing the Student information during the elopement. The IEP team identified safe places outside the building where the Student could deescalate. If the Student left campus, administration was to come to support. If the Student was approaching someplace unsafe, staff was to use the Ukeru "safe turn" strategy to redirect him to a safe place and contact the WISE team for additional support.³³

22. After the January 4, 2024, and February 5, 2024 IEP meetings concluded, the District developed a PWN dated February 5, 2024. It stated that the team would meet again in 5 weeks to review progress of the target behaviors in the Student's BIP. The District rejected the Parent's request for additional service minutes in the special

³² D9pp1-4; Coats-Clemans T75:23.

³³ D9p4; Coats-Clemans T85:10.

education classroom. The PWN explained the Student would benefit from exposure to core instruction, peer interaction and socialization in the general education setting.³⁴

23. By February 5, 2024, the Student's incidents of physical aggression had reduced to less than 1 per day. Elopements inside the building decreased to less than 1 per day. Additional adult support and the development of friendships with other students at Crestline helped the Student to make this progress.³⁵

24. Beginning February 8, 2024, the IEP team added training and support from a BCBA to assist in developing and implementing the Student's BIP.³⁶

25. By March 1, 2024, the Student had progressed from refusing to do multiple digit addition and subtraction problems to being able to solve those problems. On his reading comprehension goal the Student had improved as he could answer questions correctly 2 times. On his reading decoding goal, he was able to decode one syllable words with 67% accuracy, an improvement from his prior benchmark. On his written language goal in paragraph writing, he was able to independently write 2 sentences. On his adaptive skills goal of accepting change in his routine, the Student completed benchmarks in 4 out of 5 opportunities. On his social/emotional skills goal of using a schedule, the Student completed benchmarks in 3 out of 5 opportunities.³⁷

26. On March 11, 2024, the Student's IEP team, including the Parent, and members of the CCS WISE team, met to review his behavioral data. Based on data collection, and at the Parent's request, the team decided to amend the Student's IEP to add accommodations around using declarative language, praise and validating statements. Using declarative language involves short, simple statements typically explaining to the Student "if this, then this." The IEP team added specific examples of declarative language to the Student's BIP to help all staff working with the Student to use this approach with him. The Student data collected by the District indicated he was making additional progress toward his behavior goals. The team agreed to meet again on April 18, 2024 to further review the Student's behavioral data trends and to consider the Parent's request for Extended School Year (ESY) services. At the time of this meeting, due to the progress he was making at Crestline, the Parent withdrew her

³⁴ D8p27; Coats-Clemans T126:12.

³⁵ P23, D45pp1-5; Coats-Clemans T72:18, 86:6, Brands T163:6, Rossi T684:8.

³⁶ D8p20; Brands T166:24, 200:1-201:2, Rossi T685:12.

³⁷ D10pp22-26; Coats-Clemans T127:12.

request that the Student attend a day treatment school and asked that he continue to attend the placement provided by Crestline.³⁸

27. By March 25, 2024, when working on his communication goal in receptive language, the Student showed understanding of how items are related with 50% accuracy, an increase from the previous benchmark of 25%. On his communication goal in expressive language, the Student maintained his skill at the benchmark. When working on his communication goal in pragmatics, the Student identified emotions in 40% of opportunities, improving from the prior benchmark of 30%.³⁹

28. During the months of February and March 2024, over a period of 34 school days, the Student experienced 3 incidents of physical aggression on peers. During this same period, the Student eloped 9 times inside and 4 times outside. The total number of incidents of physical aggression reduced to less than 1 every 11 school days over that period. The total number of elopements reduced to less than 1 every 3 school days during the same period. This represented a significant reduction from the average per day in these areas from the start of the school year.⁴⁰

29. In March or April of 2024, the Student met with a private BCBA provider, Cassandra Wally, who runs and operates TLC Behavioral Consulting.⁴¹ Through her business, Ms. Wally conducts FBAs for children and provides private applied behavior analysis (ABA) services. Ms. Wally was referred to the Student to provide ABA services. She was not able to provide ABA services to him upon referral because he did not yet have an Autism diagnosis. After he received that diagnosis, she provided some direct services to the Student. Ultimately, she had to discontinue her treatment of him in his home due to his extreme behavior. She recommended that the Parent obtain treatment for him in a clinical environment. At the time of the hearing, she continued to provide “parent training” services to the family, ABA services to one of the Student’s siblings, and attend IEP meetings for the Student at the Parent’s request.⁴²

³⁸ D12pp 20, 28, 32, D14p1; Coats-Clemans T88:16-89:9, 91:23, Rivers T456:20, Rossi T689:8, Parent T1061:8.

³⁹ P10pp26, 27; Coats-Clemans T132:21, Donaghey T763:11.

⁴⁰ P23, D45pp1-5; Rossi T751:10.

⁴¹ Ms. Wally is in a PhD program in psychology with a specialty in ABA. In January 2013, Ms. Wally received a Master of Science degree from Kaplan University in Miami, Florida. She received a Bachelor of Arts from Washington State University in Vancouver, Washington in December 2007. She has a BCBA certification and is a Washington State Licensed Behavioral Analyst. She has been the CEO of TLC Behavioral Consulting and Supports, LLC since February 2021. She was employed as a clinical supervisor with Kadiant/STE from February 2019 through February 2021 and with Basic NW from July 2017 through November 2018. P24pp1-5, Wally T517:12-525:11.

⁴² Wally T525:17, 537:18.

30. By April 18, 2024, the Student had improved from the baseline established at the January 5, 2024 IEP meeting on his adaptive skills goal of accepting change in his routine and his social/emotional skills goal of recording changes in emotions throughout the day.⁴³

31. On April 18, 2024, the Student's IEP team, including the Parent, Ms. Wally, and other members of the CCS WISE team reviewed the Student's behavioral progress. The team determined ESY services would assist the Student to maintain his academic and communication skills over the summer. The purpose of ESY services is to allow a student an opportunity to prevent regression of skills over the summer break.⁴⁴

32. The Student's ESY plan provided for the Student to maintain his progress toward his math goals in addition and subtraction. It established a reading goal to maintain his skills in comprehension. It also established a communication goal to allow him to maintain and improve his "pragmatic" skills to help the Student identify emotions in others. The ESY services in the plan were:⁴⁵

ESY Services:							
Concurrent	Service(s)	Service Provider	Service Monitor	Frequency	Location (setting)	Start Date	End Date
Special Education							
No	Math	Special Education Teacher/Paraeducator	Special Education Teacher	420 Minutes / Weekly	Special Education	07/08/2024	08/01/2024
No	Reading	Special Education Teacher/Paraeducator	Special Education Teacher	450 Minutes / Weekly	Special Education	07/08/2024	08/01/2024
No	Communication	Speech-Language Pathologist	Speech-Language Pathologist	30 Minutes / Weekly	Special Education	07/08/2024	08/01/2024
Total Minutes per week of ESY Services:				900 minutes per week			
Supplementary Aids and Services:							
Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
No	Additional Adult Support	Additional Adult Support	Special Education Teacher	900 Minutes / Weekly	Special Education	07/08/2024	08/01/2024

33. On May 14, 2024, the Student eloped from the building. The incident began after another student screamed in his classroom. The Student went outside the building but did not leave the campus of Crestline. The Student's assigned 1:1 paraeducator, Ms. Heiss, was with him the whole time, staying within 5 feet of him. The Student tried to run into the street. He was kept safe using Ukeru strategies. Ms. Heiss gave him positive choices and used declarative language. She used safe turns with Ukeru pads, getting in front of the Student to block him. The Student calmed down after a time and decided to return to the building. He went to Assistant Principal, Alix

⁴³ P10pp31, 32; Coats-Clemans T131:14.

⁴⁴ D15p28, D17pp1, 2; Coats-Clemans T93:21, 94:7, 99:25, 182:5.

⁴⁵ D16pp1, 2; Coats-Clemans T97:3.

Guinn's room and continued to calm down. The incident lasted approximately 30 minutes.⁴⁶

34. On May 20, 2024, the Student escalated during recess. He went under a gate and proceeded to the front of the building. Ms. Heiss followed and kept close to him. Ms. Brand and Mr. Hill were also present. The Student threw rocks and sticks at vehicles in the parking lot. Ms. Heiss was able to keep him safe during the incident. She used her Ukeru pad to block a rock he threw. Crestline staff called the Parent and a WISE team member. The Parent arrived and took the Student home.⁴⁷

35. On May 31, 2024, the Student eloped from his classroom after getting frustrated that he could not have his flashlight that he had brought to school for a special event and. He fled the building to the parking lot. Ms. Heiss was with him and never more than 4 feet away from him. Building staff were alerted by radio. Approximately 6 other staff responded to the scene, all of whom were Ukeru trained. As the Student moved toward the street, a staff member stopped traffic. The cars were 6 to 7 car lengths away from the Student. Ms. Heiss and other building staff crossed the street with the Student. They had Ukeru pads with them. The Student kicked and punched the pads they were holding. The Student entered the yard of a neighboring home across the street. He kicked and broke a board in a fence at the neighbor's home. The owner of the home screamed profanities at the Student and staff. The Student screamed back at her. After about 10 minutes the Student returned to school after being redirected by building staff. The Student went to Mr. Guinn's room and calmed down. Crestline staff notified the Parent, the WISE team, and the police. The Student went to recess and the police arrived about 15 minutes later.⁴⁸

36. In June 2024, Student data reflected the following improved performances on his IEP goals. In math, met his benchmark to solve 2-digit addition problems with 83% accuracy and 2-digit subtraction problems with 50% accuracy. In reading, the Student read 3 short passages and was able to answer multiple choice comprehension questions with 100% accuracy. In written language, using speech to text, the Student was able to write a paragraph with support to edit his writing. In adaptive skills, he was within one benchmark of his goal to accept change in his routine. In social/emotional skills the Student was able to track his emotions on average half the time. On all 3 of his communication goals, the Student demonstrated 60% accuracy on his benchmarks.⁴⁹

⁴⁶ P23, D26p1; Coats-Clemans T102:5, Heiss T493:25, Brands T287:25.

⁴⁷ P23, D26p1; Coats-Clemans T136:9, Heiss T497:15-498:20, Brands T203:6, 283:22-286:17, Parent T990:9.

⁴⁸ P14p1, P23, D19p1, D26p1; Heiss T607:14-611:8, Brands T204:22-2206:8.

⁴⁹ D23pp1-7; Brands T193:21, Donaghey T778:21.

37. On June 12, 2024, the Student again eloped from the building. On this occasion he stayed on building grounds to deescalate through activities he found calming including walking the track. The incident lasted approximately five minutes. Ms. Heiss remained with the Student within arm's length during this elopement. The Student was not at risk of imminent harm during this elopement and returned to the school after regaining emotional control.⁵⁰

38. On June 13, 2024, the District conducted a reevaluation of the Student at the Parent's request. The reevaluation was conducted by a District school psychologist. The reevaluation team included Mr. Hill, Ms. River, Ms. Brands, Ms. Donaghey, the Parent, the family's WISE team case coordinator and WISE counselor.⁵¹ The team reviewed a cognitive evaluation completed for the Student using the Kaufman Battery for Children, Second Edition, Normative Update. Based on the evaluation results, the team proposed to continue eligibility for the Student to receive special education services and changed his category to Autism. The team decided not to change the areas in which the Student qualified for SDI. The District amended the Student's IEP to reflect his current performance. The team determined that it would reconvene and meet at the start of the 2024-2025 school year. The District issued a PWN explaining its decisions.⁵² As explained by Ms. Brands, the Student's academic and behavioral data supported maintaining his placement at Crestline. This determination was supported by the progress the Student was making in both his academic and nonacademic IEP goals.⁵³ Based on the out of building elopements, the Parent changed her mind about the Student attending the placement at Crestline and decided he need a day treatment program such as Hollingsworth.⁵⁴

39. In the months of April, May and June 2024, the Student had 14 incidents of physical aggression, 22 elopements in school and 9 elopements out of school, including the 3 incidents in May. District staff kept the Student safe using the prevention and intervention strategies in his BIP at all times during the incidents of physical aggression and elopement occurring during this period. In total, the frequency of behavior incidents had significantly decreased from the fall of 2023. He was also demonstrating the ability to generalize skills he developed through the SDI he received

⁵⁰ P23; Heiss T595:15-596:13.

⁵¹ D20p5, D22p1; Coats-Clemans T99:25.

⁵² D20p28, D21pp29, 30; Coats-Clemans T100:11, Brands T188:16.

⁵³ Brands T188:23-189:7, 301:21.

⁵⁴ Parent T1000:7.

in the general education classroom. Ms. Rivers explained that this was an important indicator of his success because it showed he could use the skills in a natural setting.⁵⁵

40. During these same months, the Student spent 2 hours or more per day in a special education setting for only 2 school days. For 26 of these school days, the Student did not spend any time in the special education setting. For 21 of those school days, he was in the special education setting for less than 2 hours per day.⁵⁶

41. During the Summer of 2024, ESY services were offered to the Student at Hollingsworth Academy (Hollingsworth). Amy Vesneske is a special education teacher at Hollingsworth.⁵⁷

42. Hollingsworth is a District day treatment school. It is designed for students with behavioral needs who display high levels of physical aggression and unsafe behaviors. Students at Hollingsworth do not participate with nondisabled peers. During the school year, Hollingsworth experiences student elopements 10 – 15 times per day. Exit doors at Hollingsworth are not locked during school days. Hollingsworth is surrounded by a fence. However, students are frequently able to climb the fence. Hollingsworth is located near a busy road. Students elope from Hollingsworth to go to the local grocery store and other attractions. During the school year at Hollingsworth a behavioral episode involving a student occurs every 20 minutes on average. Approximately 50 students attend Hollingsworth during the school year. It is often loud due to students screaming. The behavior of students at Hollingsworth is at times unpredictable.⁵⁸

43. Ms. Vesneske did not recommend that the Student attend the Hollingsworth Day Treatment program. She expressed “huge concern” that the Student would begin to emulate the negative behaviors of the other students. She was also concerned that the Student would not have the opportunity to generalize skills he learned in a general education classroom. She was additionally concerned that the Student would not have an opportunity to access peers that would be motivating to progress toward his goals. For these reasons, she did not believe the placement offered at Hollingsworth was appropriate for the Student. Her opinion was that the Student did not require the level

⁵⁵ P23, D45pp1, 4, 5; Coats-Clemans T107:10-108:10, Rivers T436:25, Brands T107:14, 116:9.

⁵⁶ P23, D26p1; Coats-Clemans T107:14, 134:10, Brands T267:6.

⁵⁷ In 2014, Ms. Vesneske obtained a Master of Arts degree in Mental Health Counseling and Vocational Rehabilitation Counseling from South Dakota State University. In 2011, she received Bachelor of Arts degrees in Elementary Education, and Special Education from West Texas A&M University in Canyon, Texas. She is in the process of obtaining a doctorate in education administration. On or about 2017, she obtained her Special Education teaching certificate. She also has a certificate in Administrative Leadership. Ms. Vesneske has taught special education with for the District for approximately 12 years, including 7 years at Hollingsworth. Vesneske T360:2-362:22.

⁵⁸ Coats-Clemans T121:12, Vesneske T375:7-379:24.

of preventative strategies offered at a day treatment program such as Hollingsworth. The other teachers familiar with the Student's behavioral needs shared her concerns and did not believe the more restrictive placement of a day treatment school was preferable to the placement offered by Crestline.⁵⁹

44. Beginning July 8, 2024, the Student attended ESY at Hollingsworth where he received 1:1 Support. He attended a total of 15 days through August 1, 2024. He spent each day in the ESY classroom for a total of 3.75 hours per day. He received SDI of 84 minutes per day in reading and 90 minutes per day in math. There were 13 students in the ESY program. The Student did not elope or act in physical aggression while receiving ESY services. The Student did not receive instruction in a general education classroom while receiving ESY services at Hollingsworth. The education services he received at Hollingsworth were consistent with his ESY plan.⁶⁰

45. By August 1, 2024, the Student was able to solve 2-digit addition problems with 85% accuracy and 2-digit subtraction problems with 58% accuracy. The Student was able to underline 1 piece of supporting evidence to answer a comprehension question in 3 out of 4 opportunities. In adaptive skills, he was able to accept change in his routine in 5 out of 5 opportunities. In social/emotional skills, the Student followed his schedule in 4 out of 4 opportunities. He demonstrated progress toward this goal by being able to reflect the emotions he felt when given opportunities.⁶¹

2024-2025 School Year

46. During the 2024-2025 school year, the Student's fifth-grade year, he remained assigned to Crestline.⁶² At the time of hearing, the Student had not attended school or received education services at any time during the 2024-2025 school year. The Student has consistently threatened to elope if he is sent back to Crestline. His stated plan is to run. This is of great concern to the Parent and the WISE team. Were the Student to attempt to walk or run from Crestline to Hollingsworth, he would have to go across roads with heavy traffic, putting him in great danger. For these reasons, the Parent has not sent the Student to receive services during the 2024-2025 school year at the placement the District has offered at Crestline.⁶³

⁵⁹ Coats-Clemans T121:19, Vesneske T388:12-390:4, Brands, T246:11, Rossi T717:5.

⁶⁰ P23, D16pp1, 2; Vesneske T366:21-367:10, 368:16-369:25.

⁶¹ D23pp1-4, 7; Vesneske T371:18.

⁶² Hill T826:16.

⁶³ D30p1, D40p1, D41p1, D42pp1, 2, D43pp1-3; Brands T221:16, Hill T861:4, Parent T1026:5, 1033:25.

47. In August 2024, Kathryn Price was the Student's WISE clinician.⁶⁴ Ms. Price provides treatment to the Student at his home and in the community. She observed the Student being physically aggressive and eloping while in his home. Ms. Price works with the Student on issues of emotional regulation, feelings of anger, handling transitions, and family connectedness. On one occasion during the 2024-2025 school year, she took the Student to Crestline for picture day. During this drop-in visit that lasted no more than 10 minutes the Student showed signs of agitation. Ms. Price has heard the Student say if he felt unsafe, he would run from Crestline to get to Hollingsworth but never expressed a direct plan. Ms. Price and the other WISE team members believe the Student requires a more restrictive placement than that offered at Crestline due to his historically having eloped in an unsafe situation. Ms. Price based her opinion on her personal knowledge of the Student's behavior outside of school, past reports of school performance from the Parent and previous WISE staff, and information provided by the District at an IEP meeting she attended on September 30, 2024.⁶⁵

48. On August 29, 2024, the District convened the Student's IEP team at Crestline. Ms. Brands, Ms. Coats-Clemans, Mr. Hill, Ms. Donaghey, the Student's assigned general education teacher, and other District personnel participated in the meeting. The Parent also attended along with 2 WISE team Care Coordinators, Ms. Price and another WISE team clinician, a WISE peer support member, and Ms. Wally. The team reviewed the Student's BIP and identified additional changes in staff response when the Student elopes. The team updated the Student's BIP to include "Code Blue" protocols that District staff would implement if the Student were to begin moving through the building without permission. This included announcing the code through the intercom to signal the need to lock the main hallway door and for staff to take positions outside exit doors blocking access using Ukeru pads. Code Blue would also initiate a call from the District to the WISE team. The BIP was also updated to add antecedent behaviors staff had observed prior to the Student engaging in unsafe behaviors. The District proposed an emergency response protocol (ERP) that would permit District to utilize crisis prevention techniques including restraining the Student were he to engage in unsafe behavior that could result in imminent harm. The ERP plan was provided to the Parent for her signature. The Parent did not sign or return the ERP plan to the District. The District could not implement the ERP without Parent

⁶⁴ Ms. Price obtained her Bachelor of Science degree in Human Development and Family Science from the University of North Texas in December 2018. She obtained her Master of Social Work from the University of Texas at Arlington. She is a Licensed Master Social Worker (LMSW) and has a Licensed Social Worker Association Independent Clinical License (LSWAIC). In August 2024 she began working for CCS as a WISE Clinician. From August 2022 through June 2024, she was employed as a qualified mental health professional working in the field. She was employed in youth development with the Peace Corps in Thailand from January 2019 through July 2019. P25pp1, 2; Price T621:15.

⁶⁵ P17p7; Price T629:16-630:24, 633:1, 647:10.

consent. The District proposed to schedule regular check-ins to review the Student's behavior and placement needs. The District issued a PWN that denied the Parent's request to change his placement to a day treatment school as it was not his least restrictive environment (LRE). In making its determination the District reviewed the Student's progress at Crestline during the 2023-2024 school year and through his ESY services at Hollingsworth.⁶⁶

49. On or around the end of September 2024, the District received a letter about the Student dated September 27, 2024. The letter was authored by Laura A. Bliss, MD, the Student's neurologist. The letter stated Dr. Bliss was treating the Student for severe neurological and behavioral problems that caused him significant issues with his ability to engage in traditional school safely and effectively. The letter explained that the Student was taking a "significant number" of psychotropic medications to control his seizures and psychiatric disturbances. It stated the medications were "wrought with problematic side effects which can be very difficult to manage." Dr. Bliss recommended that the Student attend a day treatment school specially equipped to handle the Student's unique medical—behavioral challenges so that he could learn to safely attend a traditional school environment.⁶⁷

50. On September 30, 2024, the District convened the Student's IEP team to again review if any changes were needed to his services, placement or BIP. The Student had still not attended during the school year. The Parent attended this meeting with Ms. Price, other members of the WISE team and Ms. Wally. The District agreed to add to the Student's BIP that it would contact WISE team members prior to his elopement when he began to show escalation. The team did not feel that adding this was essential for the BIP to be effective. The reason WISE contact was prioritized in the BIP was for the Parent to develop trust with the District and encourage the Parent to send him to school. The District sent the Parent a PWN explaining its decision and its continued willingness to implement an ERP protocol.⁶⁸

51. Prior to and during the September 30, 2024 IEP team meeting, the Parent, with the support of WISE team members and Ms. Wally, expressed concern that the Student would run away from Crestline to go to Hollingsworth. Ms. Wally expressed the need for the Student to be in the safest school even if it were more restrictive. In her view, a school appropriate for the Student would be able to develop a trusting relationship with

⁶⁶ D27pp1-27, D28pp1-6; Coats-Clemans T62:18, 110:24, Wally T566:21, Brands T227:4.

⁶⁷ P15pp1, 2; Parent T995:15.

⁶⁸ D33pp29, 30, D34p4; Brands T233:22. Rossi T711:5, Bennett T895:7, Parent T1058:19.

the Parent, have staffing that could remain in arm's length of the Student at all times, and block the Student from eloping outside of the building.⁶⁹

52. Ms. Wally's opinion was that it was in the Student's best interest to attend a day treatment program. Her opinion was based on the Student's very aggressive physical and vocal behavior towards others in the home as well as his destruction of property in the home. She also was aware of his behavior at school through the Parent and her attendance at IEP meetings.⁷⁰

53. On October 14, 2024, the Parent filed her due process hearing request.⁷¹

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.⁷² In a due process hearing, the burden of proof is a preponderance of the evidence.⁷³

The IDEA and FAPE

3. Under the IDEA, a school district must provide a 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."⁷⁴

4. In *Bd. Of Educ. of Hendrick Hudson Central Sch. Dist. v. 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

⁶⁹ Wally T534:18.

⁷⁰ Wally T538:10, 555:24.

⁷¹ Complaint.

⁷² RCW 28A.155.260(1).

⁷³ RCW 28A.155.260(3).

⁷⁴ *Bd. Of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 200-201 (1982).

with the procedures set forth in the IDEA. The second question is whether the IEP developed under these procedures is reasonably calculated to enable the child to receive educational benefits. As stated in *Rowley*, “[i]f these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.”⁷⁵ 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.⁷⁶

5. 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.⁷⁷

6. In *Endrew F. v. Douglas County Sch. Dist. RE-1*, the U.S. Supreme Court stated, “[t]o 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.”⁷⁸ 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.⁷⁹ The “essential function of an IEP is to set out a plan for pursuing academic and functional advancement.”⁸⁰ Accordingly, an IEP team is charged with developing a comprehensive plan that is “tailored to the unique needs of a particular child.”⁸¹ Additionally, the Student’s “educational program must be appropriately ambitious in light of his circumstances”⁸²

⁷⁵ *Rowley*, 458 U.S. at 206-07.

⁷⁶ *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir. 2001).

⁷⁷ WAC 392-172A-05105(2); 34 CFR § 300.513(a)(2).

⁷⁸ 580 U.S. 386, 137 S. Ct. 988, 999, 197 L. Ed. 2d 335 (2017).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Endrew F.*, 580 137 S. Ct. at 1000.

⁸² *Id.*

7. In reviewing an IEP, “the question is whether the IEP is *reasonable*, not whether the court regards it as ideal.”⁸³ The determination of reasonableness is made as of the time the IEP was developed. An IEP is “a snapshot, not a retrospective.”⁸⁴

IEP Requirements

8. An IEP must contain a statement of a student’s present levels of academic and functional performance, including how the child’s disability affects the child’s involvement and progress in the general education curriculum.⁸⁵ Present levels must include baseline measurements for goals.⁸⁶

9. An IEP must include a statement of the program modifications and supports that will be provided to enable the student to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other students, including nondisabled students.⁸⁷

10. An IEP must also contain a statement of annual goals, including academic and functional goals designed to meet the student’s needs that result from his disability. For students who take alternate assessments aligned to alternate achievement standards, the IEP must include a description of benchmarks or short-term objectives.⁸⁸ There must be a relationship between the present levels of performance and the goals and objectives. 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.⁸⁹

11. An IEP must include a statement of the special education and related services to be provided to the student to enable the student to advance appropriately toward attaining the annual goals, to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other students, including nondisabled students.⁹⁰

⁸³ *Endrew F.*, 137 S.Ct. at 999 (emphasis in original).

⁸⁴ *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999).

⁸⁵ WAC 392-172A-03090(1)(a); 34 § CFR 300.320(a)(1).

⁸⁶ *Northshore Sch. Dist.*, 114 LRP 2927 (SEA WA 2013).

⁸⁷ WAC 392-172A-03090(1)(c)-(d); 34 § CFR 300.320(a)(4)(ii).

⁸⁸ WAC 392-172A-03090(1)(b)(i); 34 § CFR 300.320(a)(2).

⁸⁹ *Seattle Sch. Dist.*, 34 IDELR 196, 34 LRP 226 (SEA WA 2001).

⁹⁰ WAC 392-172A-03090(1)(d); 34 CFR § 300.320.

Behavior Intervention Plan

12. Positive behavioral interventions are strategies and instruction that can be implemented in a systematic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior.⁹¹ WAC 392-172A-03110(1) requires an IEP team, in developing an IEP, to consider the student's strengths; the student's most recent evaluation results; the academic, developmental, and functional needs of the student; and the parent's concerns for enhancing the student's education. The IEP team must also consider special factors unique to the student, including 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.⁹²

13. A BIP must be included in a Student's IEP if determined necessary by the IEP team to receive a FAPE. At a minimum, it must describe the following:

- a) The pattern of behavior(s) that impedes the student's learning or the learning of others;
- b) The instructional and/or environmental conditions or circumstances that contribute to the pattern of behavior(s) being addressed by the IEP team;
- c) The positive behavioral interventions and supports to:
 - i. Reduce the pattern of behavior(s) that impedes the student's learning or the learning of others and increases the desired prosocial behaviors;
 - ii. Ensure the consistency of the implementation of the positive behavioral interventions across the student's school-sponsored instruction or activities; and
- d) The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior for the Student.⁹³

14. A BIP in an IEP is appropriate if it is reasonably tailored to meet the student's

⁹¹ WAC 392-172A-01140.

⁹² WAC 392-172A-03110(2)(i).

⁹³ WAC 392-172A-01031.

unique behavioral needs at the time that it was developed.⁹⁴

Educational Placement

15. WAC 392-17A-02060(1) and (2) require that an IEP team, including the parents, decide the educational placement of a student at least annually after formulating the IEP and based on the following criteria:

- (a) the Student's IEP;
- (b) the LRE requirements contained in WAC 392-172A-02050 through 392-172A-02070;
- (c) the placement option(s) that provide a reasonably high probability of assisting the student to attain his or her annual goals; and
- (d) a consideration of any potential harmful effect on the student or on the quality of services which he or she needs.⁹⁵

16. The Ninth Circuit has defined educational placement to mean the general educational program of the student.⁹⁶

17. WAC 392-172-02050 requires school districts to ensure that students who receive special education are served in their LRE. This means students should be served "(1) to the maximum extent appropriate in the general education environment with students who are nondisabled; and (2) special classes, separate schooling, or other removal of students eligible for special education from the general educational environment occurs 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."⁹⁷

18. The Ninth Circuit established a 4-part test established in *Sacramento City Unified Sch. Dist. V. Rachel H*, 14 F.3d 1398, 1404 (9th Cir. 1994) to determine whether a student's placement represents the LRE:

We consider: (1) the academic benefits of placement in a mainstream setting, with any supplementary aids and services that might be

⁹⁴ *Bouabid v. Charlotte Mecklenburg Schs. Bd. of Educ.*, 121 LRP 41291 (W.D.N.C. December 10, 2021); see also, *Endrew F.*, 580 U.S. at 399.

⁹⁵ See, *Clover Park School District*, 122 LRP 46581 (SEA WA 2022).

⁹⁶ *N.D. v. State Dep't of Educ.*, 600 F.3d 1104, 1116 (9th Cir. 2010).

⁹⁷ *Id.*; see also, 34 CFR 300.116(b)(2).

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.⁹⁸

19. The IDEA requires school districts to provide an education in a placement and location that meets a student's "academic, social, health, emotional, communicative, physical and behavioral needs."⁹⁹ While every effort is to be made to place a student in the LRE, it must be the LRE which also meets the child's IEP goals.¹⁰⁰

Issue for Hearing

20. The sole hearing issue in this case is whether beginning April 8, 2024, through June 17, 2024, the District violated the IDEA and denied the Student a FAPE by not providing the Student with a safer school placement with more physical safeguards and therapeutic support than Crestline. The Parent's complaint framed this issue based on allegations that the Student: (i) eloped fifteen times from the building from the middle of February 2024 through the middle of June 2024; (ii) crossed the street in front of cars, (iii) engaged in dangerous behavior, and (iv) was verbally threatening to elope if he returned to Crestline.

21. Despite the stated issue in this case being about the District's placement during the brief period of time from April 8, 2024 through June 17, 2024, in her closing memorandum the Parent expanded her arguments. She additionally alleged the Student's IEP was not appropriate as a District behavior specialist did not attend the June 13, 2024, IEP meeting. She also claimed that Crestline staff were not adequately trained to implement the Student's BIP. While these arguments stray from the issue of the Student's placement from April 8, 2024 through June 17, 2024, the District's closing brief also addressed these arguments. Therefore, for completeness, each of the Parent's and District's arguments are addressed herein.

⁹⁸ *Ms. S. ex rel. G v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1137 (9th Cir. 2003) (internal quotation marks omitted; citations omitted) (quoting *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994)).

⁹⁹ *Ashland Sch. Dist. v. Parents of H.*, 587 F.3d 1175, 1185 (9th Cir. 2009).

¹⁰⁰ *City of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1468 (9th Cir. 1996).

IEP and IEP Amendment In Place From April 8, 2024 Through June 17, 2024

22. The IEP finalized on February 5, 2024, including the March 11, 2024 BIP amendments, was the IEP that was in effect during the time period at issue of April 8, 2024, through June 17, 2024. In her closing memorandum, the Parent argues the Student's "current" IEP does not offer the Student a FAPE because the District behavior specialist, Ms. Rossi, did not attend the June 13, 2024 IEP meeting and did not properly analyze the Student's data during the August 29, 2024 IEP meeting.¹⁰¹ The Student's current IEP was finalized after the time period at issue. However, as the June 13, 2024 IEP meeting was held during the complaint period, the arguable impact of her nonattendance at the meeting in the subsequently developed August 29, 2024 IEP is analyzed below. The District in its closing brief argues that the Student's IEP that was in place during the time period at issue, which was substantially similar to the current IEP, was appropriately tailored to meet the Student's behavior needs.¹⁰²

23. The IEP developed on February 5, 2024, with input from the Parent, and the CCS WISE team, provided a program for the Student that included social emotion skills goals, communication goals and adaptive skills goals. The Parent does not dispute that these goals were reasonably calculated to enable the Student to make meaningful progress toward his needs in these areas and were tailored to the Student's current performance at the time the IEP was developed. Beginning February 5, 2024, the IEP added additional adult support to the Student's related services and supplementary aids and services. On March 11, 2024, the IEP team added the use of declarative language to the BIP contained within the Student's IEP. Providing these additional supports in the Student's IEP allowed the District to keep the Student safer and provide adequate staffing. It also was appropriate to design a program that allowed the Student an opportunity to generalize the behavior skills he learned in his general education classes as recommended by Ms. Brands and Ms. Rivers.

24. The District's BCBA, Ms. Rossi, was a part of the IEP team that developed the IEP on February 5, 2024. Ms. Rossi helped design the Student's behavior program and the BIP incorporated into his IEP which included the use of Ukeru strategies. It was reasonable for the Student's BIP to include Ukeru strategies to keep the Student safe during behavior escalations and elopements. The use of Ukeru strategies allowed District staff to remain in arm's length of the Student and maintain his safety during elopements and incidents of physical aggression without the need for restraint.

25. The Parent's argument that the Student's current IEP was not appropriate as Ms. Rossi did not attend the June 13, 2024 IEP meeting is not persuasive. The meeting

¹⁰¹ *Parent's Post-Hearing Brief*, p. 14.

¹⁰² *District's Closing Brief*, pp20-24.

was held 2 school days before the end of the school year and was not consequential to the allegations that the Student was deprived of a FAPE from April 8, 2024 through June 17, 2024. Ms. Brands, Ms. Rivers, Ms. Donaghey, and Mr. Hill, along with the Parent and the CCS WISE team members attended the meeting and were able to assess and report his current performance to the District school psychologist who also attended the reevaluation meeting. The District did not make any programmatic changes to the Student's IEP at the June 13, 2024 IEP meeting. However, his IEP was amended to reflect the Student's performance as identified during the reevaluation. This information was available to Ms. Rossi when she attended the subsequent IEP meeting on August 29, 2024. Therefore, Ms. Rossi's nonattendance at the June 13, 2024, reevaluation meeting had no bearing on her ability to provide information to the Student's IEP team at subsequent meetings and did not result in a deprivation of FAPE to the Student.

26. Based on the above conclusions, the District met its burden of proof as a preponderance of the evidence supports the conclusion that the IEP and BIP offered to the Student from April 8, 2024 through June 17, 2024 was reasonably calculated and tailored toward his behavioral needs. The Parent's arguments regarding the June 13, 2024 IEP meeting do not impact this conclusion.

Implementation of the Student's BIP

27. In her closing memorandum, the Parent argues that the District did not provide the Student with a safe educational environment from April 8, 2024 through June 17, 2024 because the staff was not adequately trained to restrain the Student when needed. She argued further that Crestline staff should have received more training and BCBA support to implement the Student's BIP, and that Crestline could not adequately implement the Student's BIP.¹⁰³ The District in its closing brief argues that the Student's BIP was implemented with fidelity and consistent with his IEP.¹⁰⁴ Again, while the issue in this case concerned the appropriateness of the Student's placement, both the Parent and the District raised arguments about the implementation of the Student's BIP. Therefore, those arguments are addressed below.

28. Material failures to implement an IEP violate the IDEA.¹⁰⁵ Minor discrepancies in the services required by the IEP do not violate the IDEA.

“[S]pecial education and related services” need only be provided “*in conformity with*” the IEP. [20 USC §1401(9).] There is no statutory

¹⁰³ *Parent's Post-Hearing Brief* pp9-10.

¹⁰⁴ *District's Closing Brief*, pp20-24.

¹⁰⁵ *Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811 (9th Cir. 2007).

requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education.

* * *

We hold that a *material* failure to implement an IEP violates the IDEA. A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP. *Van Duyn v. Baker Sch. Dist.* 5J. at 821-22 (italics in original).

29. The Parent's argument that the Student's elopements outside the building proved that the programming at Crestline was unsafe is not persuasive. The Student's BIP specifically identified places outside the building where the Student could go to de-escalate. When the Student eloped from outside areas that were not identified in his BIP, the District staff stayed with him at all times. Even during the May 31, 2024 incident, District staff followed the Student's BIP making sure cars were stopped and sufficient staff responded to maintain the Student's safety. At no point during the time period at issue does the record indicate that Crestline staff were not adequately trained or that the building did not have adequate staffing to implement the Student's BIP or that the Student was deprived of BCBA support provided for in his IEP.

30. Considering all the facts of this case, Crestline staff implemented the Student's BIP without any material failures, including during all of the incidents in which the Student eloped outside the building. The Student progressed in his behavior skills while building stamina and confidence in the general education classroom as the IEP envisioned. Therefore, the District proved by a preponderance of the evidence that during the time period at issue it implemented the Student's BIP consistent with his IEP.

Student's Placement

31. The Parent's complaint alleges that the Student eloped fifteen times from the middle of February 2024 through the middle of June 2024. It also alleges he engaged in dangerous behaviors, including crossing the street in front of cars and verbally threatening to elope. She argues these facts evidenced that the placement offered at Crestline was not appropriate for the Student. The Parent argues that the Student required a more restrictive placement at a therapeutic day school such as Hollingsworth.¹⁰⁶ The District's closing brief argues the Student's placement at Crestline represented his LRE, correctly identifying that the four-part test used to

¹⁰⁶ Complaint p16; Parent's Closing Brief p10; Parent's Opening Statement, T49:11-53:1.

determine the Student's placement is that used by the Ninth Circuit in *Rachel H.*¹⁰⁷

Rachel H. Test – Academic Benefits of Mainstreaming

32. The first of the considerations under the *Rachel H.* test is the academic benefits of placement in a mainstream setting, with any supplementary aids and services that might be appropriate. At the start of the 2023-2024 school year, the Student's IEP provided for SDI in reading, writing, and math while concurrently receiving social/behavioral instruction. The Student's placement was 40% to 79% in the general education classroom during the time period at issue, April 18, 2024 through June 17, 2024.

33. Based on the facts of this case the Student made incremental progress toward the benchmarks of his IEP goals in each academic area in which he required SDI. The Student made this progress toward academics while spending increasing time in the general education classroom. This was consistent with the IEP's overall stated intent: to provide the Student with a placement in which he could build academic skills and develop confidence to complete academic tasks in the general education classroom.

34. While attending the ESY program at Hollingsworth the Student advanced in his academic goals. However, while in ESY the Student had no opportunity to work on academic goals in a general education setting. As explained by Ms. Rivers, having the opportunity to demonstrate his skills and work with peers in the general education class was important to the Student's success.

35. Because the Student was continually progressing toward his academic goals and demonstrating increased ability to complete academic tasks in the general education classroom, it is concluded that the District demonstrated by a preponderance of the evidence that the placement reflected in the IEP of February 5, 2024, provided him with academic benefit during the time period at issue. The Student demonstrated the ability to progress in academics at both the Crestline and ESY program at Hollingsworth. Presumably he would also be able to make academic progress at the Hollingsworth day treatment program. Nevertheless, the placement provided for him at Crestline could offer him an opportunity to succeed in his academic goals, while maximizing his opportunity to participate in the general education classroom. Therefore, the academic benefit factor of the *Rachel H.* test favors the placement delivered at Crestline.

Rachel H. Test – Non-academic Benefits of Mainstream Placement

36. At the start of the 2023-2024 school year, the Student's IEP provided for a BIP

¹⁰⁷ District's Closing Brief p28.

and goals in social/behavioral skills, behavioral skills, adaptive skills and social/emotional skills. In February 2024, additional goals were added to the Student's IEP in the area of communication and his other goals were updated. Analysis of the non-academic benefits must consider the behavioral data and other information that was available to the IEP team regarding the Student's progress towards his non-academic goals while at Crestline.

37. By December 2023, the Student had progressed on the benchmarks of his adaptive skills and behavioral skills goals. Additional progress was evident in March 2024, as the Student demonstrated improvement in his adaptive skills goal regarding accepting to change. The Student also showed improvement in each of his communication goals, and his social/emotional skills goal of tracking his emotions. On the whole, the Student progressed in his benchmarks in each of his non-academic goals. Each time the IEP team met during the time period at issue, the IEP team had information that the Student received non-academic benefit from the placement at Crestline.

38. The Student's behavior data while at Crestline indicated improvement in the areas of concern raised by the Parent; physical aggression and elopements. During the months of April through June 2024, the average incidents trended slightly upward but remained significantly lower than the Student's performance at the start of the school year. In the aggregate, the Student's behavior data demonstrates that the Student received non-academic benefit from the placement provided to him at Crestline during period at issue.

39. The evidence presented by the District shows that during each elopement the Student was kept safe. Much of the evidence presented by the Parent focused on the three elopements occurring outside the school in May 2024. Crestline staff remained with the Student throughout each incident and kept the Student safe.

40. The gains the Student made in his non-academic goals and the improvement in the behaviors of concern over the course of the 2023-2024 school year support the conclusion that the placement at Crestline offered the Student non-academic benefit. This is evidenced by the fact that the Student's IEP team reviewed his placement consistently throughout the school year and adjusted his services as needed.

41. While at Hollingsworth the Student completed the benchmarks of his adaptive skills goal and his social/emotional skills goal regarding following a schedule. He also made gains and maintained skills in his social/emotional skills regarding reflecting his emotions. However, as testified to by Ms. Vesneske, were the Student to attend the Hollingsworth day treatment school, he may begin to emulate the negative and unpredictable behaviors of other students at the school. He would also not have the opportunity to work on positive behaviors in a general education classroom.

42. The information the IEP team had available during the time period at issue indicated the Student received non-academic benefit from the placement offered at Crestline. Compared to the potential negative aspects of placement at the Hollingsworth day treatment school, a preponderance of the evidence supports the conclusion that the non-academic benefits favored the placement represented by Crestline. The second *Rachel H.* factor, therefore, favors the placement offered at Crestline.

Rachel H. Test – Negative Effects of Student’s Presence

43. With respect to the third factor of *Rachel H.*, negative effects of the Student’s presence in the general education classroom, the Ninth Circuit in that case looked at two aspects, “(1) whether there was detriment because the child was disruptive, distracting or unruly, and (2) whether the child would take up so much of the teacher’s time that the other students would suffer from lack of attention.”¹⁰⁸

44. A preponderance of the evidence in this case does not establish that the Student’s elopements or physical aggression were a detriment to the general education classroom. During the Student’s elopements he left the general education classroom. The staff that responded to the Student’s elopements were special education staff and administration. There was no evidence that general education staff were diverted from the classroom or that the Student’s elopements interfered with learning in the classroom. During the time period at issue, the Student’s physical aggression was greatly reduced compared with the start of the school year. The interventions and support from his BIP kept him from creating imminent harm to himself or others. Ms. Rivers testified that as the Student developed his relationship with her and his peers, he was able to remain in the general education classroom longer. This was in part due to the additional adult support added in February 2024, to allow him to be more able to complete academic tasks in the general education classroom. As the year progressed, during the time period at issue, the Student’s IEP team had information that the Student was able to spend more time in the general education classroom, including at times, the entire school day.

45. Therefore, it is concluded that beginning April 8, 2024 through June 17, 2024, the Student’s IEP team did not have sufficient evidence to conclude that the Student’s physical aggression or elopements were so disruptive, distracting or unruly to cause his presence to be a detriment in the general education classroom. It is also concluded that these behaviors would not have taken up so much of Ms. River’s time that the other students in her classroom would suffer from lack of attention. Therefore, the third consideration of *Rachel H.* weighs in favor of the placement offered at Crestline.

¹⁰⁸ *Rachel H.*, 14 F.3d 1398, at 1404.

Rachel H. Test - Cost

46. The fourth consideration of *Rachel H.* is the cost of providing the Student education of the Student in the general education classroom. Neither party in this case introduced evidence as to the cost of educating the Student in his placement at Crestline as compared with Hollingsworth. Therefore, this factor is considered to be neutral and not weighed in favor of either party.

Rachel H. Test – Weighing the Factors

47. Consideration of the four *Rachel H.* factors supports the conclusion that the placement the District offered at Crestline during the period of April 8, 2024, through June 17, 2024, was consistent with the Student's LRE. As discussed above, in April 2024 the Student was making progress toward his academic and non-academic IEP goals. His behavioral data showed great improvement from the prior school year. The incidents of physical aggression and elopements that did occur did not disrupt or divert attention from the other students in the general education classroom. Therefore, the District proved by a preponderance of the evidence that three of the four *Rachel H.* considerations favored the placement it proposed. The fourth consideration, cost, was neutral and not applicable to analysis of the Student's LRE.

48. The Parent strenuously believes the Student cannot be educated safely at the placement offered by the District at Crestline. Her concern, and that of the WISE team, is driven by the fear that the Student will leave school and attempt to go to Hollingsworth. Partly in response to their concerns, the Student's IEP team met in August and September of 2024. The team amended the Student's BIP to prioritize contacting the WISE team. It also added the Code Blue protocols to prevent the Student from leaving the building. Based on the extensive school-based behavioral data the District possessed occurring up to the end of the period at issue, these additions were reasonable responses to the Parent's and WISE team's concerns.

Conclusion

49. Based on the conclusions of law above, the District proved by a preponderance of the evidence that from April 8, 2024 through June 17, 2024: the Student's IEP was reasonably calculated and tailored to meet his behavioral needs; his BIP was implemented consistently with his IEP; and the District provided the Student with an appropriate placement consistent with his LRE that offered him the opportunity to safely receive a FAPE.

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

51. All arguments made by the parties have been considered. Arguments not specifically addressed herein have been considered but are found not to be persuasive or not to substantially affect a party's rights.

ORDER

The Evergreen School District proved by a preponderance of the evidence that it did not violate the IDEA or deny the Student FAPE. As such, the Parent is not entitled to her requested remedies.

SERVED on the date of mailing.



Paul Alig
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 June 12, 2025, at Olympia, Washington.

Lan Le

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cc: Administrative Resource Services, OSPI