

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Central Kitsap School District

Docket No. 06-2025-OSPI-02578

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

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2025-SE-0087X

A due process hearing was held before Administrative Law Judge (ALJ) Courtney Beebe on August 21, 2025, via videoconference. The Parent of the Student whose education is at issue¹ appeared and represented herself. The Central Kitsap School District (District) was represented by Carlos Chavez, attorney at law. Also present for the District was Julie McKean, Executive Director of Special Services.

STATEMENT OF THE CASE

Procedural History

On June 3, 2025, the Parent filed a due process hearing request. The District filed its response on June 10, 2025. A scheduling notice issued on June 4, 2025, providing notice of a prehearing conference on June 17, 2025. The parties appeared on June 17, 2025, for the prehearing conference. The due process hearing was scheduled for August 21, 2025, and a prehearing order issued giving the parties notice of the issues presented and the due process hearing schedule. The due process hearing was held via video conference on August 21, 2025. All evidence and closing arguments occurred on the record and the record closed on August 21, 2025.

Due Date for Written Decision

The decision is due on September 20, 2025.

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

EVIDENCE RELIED UPON

Exhibits Admitted:

District's Exhibits: D1 and D2

Parent's Exhibits: P1, P2, P3, P4, P5, and P6.

Witnesses Heard (in order of appearance): Crosby Wilson, Megan Stanford, Paiten Little, and the Parent.

ISSUES

The issues presented for hearing are:

a. Whether the District violated the Individuals with Disabilities Education Act (IDEA) and denied the Student a free appropriate public education (FAPE) by:

i. Failing to conduct an appropriate evaluation of the Student on or about May 7, 2025;

ii. Failing to correctly determine that the Student is eligible for special education services.

b. And, whether the Parent is entitled to their requested remedies:

i. A determination that the Student is eligible for special education services in the areas of speech language pathology, occupational therapy and / or physical therapy, and mobility;

ii. Or other equitable remedies, as appropriate.

(First Prehearing Order, June 17, 2025.)

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FINDINGS OF FACT

1. At the time of the May 7, 2025, evaluation (“Evaluation”) the Student was [REDACTED]. (D1; Parent Testimony.)² The Parents provide the Student with a bi-lingual ([REDACTED] and English) household. (D1; Little Testimony; Parent Testimony.) The Student carries diagnoses of [REDACTED]. (D1, pp.2-3, 6-7; Wilson Testimony; Little Testimony; Stanford Testimony; Parent Testimony.) The Student uses [REDACTED]. (Id.) The Student also presents with [REDACTED] in her upper and lower extremities. (Id.)
2. Prior to May 7, 2025, the Student received Individuals with Disabilities Education Act (“IDEA”) Part C early intervention services through the non-profit [REDACTED].³ (D1; Wilson Testimony.) [REDACTED] initially evaluated the Student in December 2024 using the Developmental Assessment of Young Children (“DAYC”), which showed that “the majority of the Student’s skills are now within normative limits.” (D1, p.2; Wilson Testimony.) However, the Bayley Scales of Infant and Toddler Development (“BSITD”) used to assess the Student at [REDACTED] in December 2024 showed that the Student’s motor skills may be impacted. (Id.)
3. The Parent and District initiated the May 7, 2025, Evaluation to determine if the Student qualified for IDEA Part B special education services at the preschool level. (D1; Wilson Testimony.) The Parent referred the Student for an evaluation in the areas of Speech Language Pathology (SLP) and Motor. (D1, p.2; Parent Testimony; Little Testimony; Wilson Testimony.)

² After the due process hearing completed and the record closed on August 21, 2025, the Parent requested and received a copy of the due process hearing transcript. However, a copy of the transcript was not produced and filed with OAH until September 4, 2025, and the District did not request a copy of the transcript. As result, the citations to witness testimony herein refer to the audio recording of the due process hearing.

³ [REDACTED]. (D1, p.2; Wilson Testimony.)

4. The members of the Evaluation team included: the Parent; Paiten Little,⁴ SLP; Megan Stanford,⁵ Physical Therapist (“PT”); Collier Daniles-Hall,⁶ Occupational Therapist (“OT”); and Crosby Wilson,⁷ School Psychologist. (D1; Little Testimony; Stanford Testimony; Wilson Testimony; Parent Testimony.)

5. During the May 7, 2025, Evaluation, Paiten Little, SLP, performed an SLP screening. (D1, pp.5-6; Little Testimony; Parent Testimony.) Ms. Little reviewed the Student’s most recent SLP evaluation from [REDACTED], which reflected that the Student’s receptive language and expressive language scores were below the mean, but within normal limits. (*Id.*) Based on the recent SLP evaluation, [REDACTED] was not providing any intervention services in the area of SLP. (*Id.*)

6. The Parent reported that the Student has a vocabulary of over 100 words and she can string two word phrases together in both English and [REDACTED] but she “often drools, has a hard time swallowing, and has increased difficulty with sounds that appear to require more muscular strength.” (*Id.*)

7. Ms. Little recommended continued monitoring because the Student’s medical diagnoses put her “at risk for articulation difficulties due to possible speech dysarthria or dyspraxia.” (*Id.*) Ms. Little also recommended that the Parent ask the Student’s pediatrician about performing a clinical Barium Swallow Study and a medical evaluation for feeding, swallowing and developing oral motor strength. (*Id.*) Ms. Little, however, did not recommend further evaluation of the Student in SLP because the Student’s language scores were within the normal range. (*Id.*)

⁴ Paiten Little has worked for the District as a speech language therapist for six years. (Little Testimony.) Ms. Little earned an undergraduate degree from Eastern Washington University, and a Master’s in speech and hearing sciences at Washington State University (*Id.*) Ms. Little has a Certificate of Clinical Competency in SLP. (*Id.*)

⁵ Megan Stanford has been employed as a physical therapist at the District since 2020. (Stanford Testimony.) She has been a physical therapist for twenty-four years after graduating from Pacific University with a master’s in physical therapy and a Doctorate in physical therapy. (*Id.*)

⁶ Collier Daniels-Hall is listed on the District’s witness list but did not appear and testify at the due process hearing. (Chavez, Audio Recording.)

⁷ Crosby Wilson is employed as the District’s early childhood evaluation team school psychologist. (Wilson Testimony.) Mr. Wilson has worked as a school psychologist for twelve years. (*Id.*) He received his Education Specialist degree from Eastern Washington University, and subsequently pursued additional course work. (*Id.*)

8. As a result of the SLP screening, the District agreed to evaluate the Student in the area of Motor only. (D1, p.3; Wilson Testimony; Stanford Testimony.)

9. Ms. Daniels-Hall, OT, evaluated the Student in Fine Motor and Perceptual Motor skills. (D1, pp.3-4, 6-7; Stanford Testimony.) Ms. Daniels-Hall administered the Battelle Developmental Inventory – Third Edition (“BDI-3”) to assess the Student’s developmental skills, specifically to assess a child’s ability to control and use the large and small muscles of the body within three domains: Gross Motor, Fine Motor, and Perceptual Motor. (*Id.*)

10. The Student scored in the 50th percentile in Fine Motor, which is in the “average” range for peers her same age. (*Id.*) The Student was able to color with a marker using four fingers, pull apart Velcro items and put them back together, and she demonstrated dexterity when she was in a sitting position. (*Id.*) The Student’s “pincer grasp,” however, is inconsistent when she is focusing on balancing when standing. (*Id.*)

11. The Student scored in the 5th percentile in the area of Perceptual Motor, which is lower than peers her same age “due to some difficulties with more controlled fine motor movement.” (*Id.*) Specifically, Ms. Daniels-Hall reported that the Student is not able to “imitate vertical or horizontal straight lines consistently” or “[use] scissors to snip paper.” (*Id.*) Also, the Student “requires increased focus and time” to stack blocks or place rings on a post, and needed to use two hands to perform some tasks because her hands shake. (*Id.*)

12. Ms. Daniels-Hall noted that the Student was carried into the assessment by the Parent, and that she did fall occasionally, but she supported herself by leaning on items in the room. (*Id.*) During the Motor assessment, the Parent reported that the Student “likes to be independent,” and “is working on falling safely.” (D1, pp.6-7; Stanford Testimony; Parent Testimony.) Ms. Daniels-Hall observed that the Student demonstrates drive, determination, and perseverance when performing motor tasks. (*Id.*) The Student’s adaptive motor skills reflected that the Student assists with dressing, takes off her shoes independently, and feeds herself using a spoon, can cut with a knife, but cannot use a fork. (*Id.*)

13. Ms. Daniels-Hall recommended that the Student’s Fine Motor and Perceptual Motor skills be monitored, but because the Student “appears to be determined to complete activities in a way that works best for her,” and “does not demonstrate fine and visual motor delays,” Ms. Daniels-Hall did not recommend specially designed instruction (“SDI”). (*Id.*)

14. Ms. Stanford, PT, also evaluated the Student Gross Motor to determine whether the Student could “access and participate” in the school setting, and “interact with peers and receive an education similar to [the Student’s] peers.” (D1, pp.7-8; Stanford Testimony.) Ms. Stanford’s assessment reflected that the Parent carried the Student into the evaluation room, but that the Student can walk at least 20 feet independently. (*Id.*) However, the Student “is unstable and will occasionally lose her balance and fall.” (*Id.*) Ms. Stanford and the Parent reported that the Student maintains forward motion, and is able to use protective posturing to catch herself or fall without injury, or she relies on tables, walls or other items to steady herself and come to a stop. (*Id.*)

15. The Student’s █████ make sitting on the floor a challenge but the Student has mastered work arounds such as “plopping onto her bottom” or kneeling. (*Id.*) Ms. Stanford observed that the Student is “very determined and prefers to walk without assistance, but does have more frequent falls this way.” (*Id.*) The Parent reported that the Student is learning to walk over uneven surfaces like gravel, grass, and bark, and that she can use a slide at the playground. (*Id.*)

16. Based on her assessment of the Student, Ms. Stanford concluded:

[The Student] displays gross motor delays that could limit her ability to access and participate in a classroom setting and if she demonstrates a need for a developmental preschool program, PT could be provided as a related service to support her access to her learning environment. However, her notable progress with her skills recently indicates that she would not require an SDI level of support for physical therapy. She is a very motivated and determined little girl who has made very quick progress with her ability to walk and navigate her surroundings. Given the significant progress she has made over the 3 weeks that she has been █████, it is expected that she will continue to make notable progress with her ability to safely access her environment. Should she continue to have gross motor delays that negatively impact her safe access to a school setting when she begins Kindergarten, it is recommended a new physical therapy evaluation be performed at that time. Should she have any loss of skills or increased concerns regarding her gross motor skills prior to that time, a re-evaluation can be done as needed.

(D1, pp.7-8; Standford Testimony.)

17. Regardless, Ms. Stanford acknowledged that the Student's [REDACTED] will not improve overtime, and recommended that the Student attend outpatient physical therapy to improve efficiency, balance, and make her movements less physically taxing and typical as possible. (Stanford Testimony.)

18. Mr. Wilson created the May 7, 2025, Evaluation report ("Report"). (Wilson Testimony.) The Evaluation Report contains the assessment results From Ms. Little, Ms. Daniels-Hall, and Ms. Stanford, Parental input, input from a [REDACTED] employee, and the Evaluation Team recommendations. (D1; Wilson Testimony.) On May 7, 2025, the Evaluation Team held an Evaluation Team meeting and reviewed the Evaluation Report. (D1, p.11; Wilson Testimony; Parent Testimony; Little Testimony; Stanford Testimony.)

19. The Parent expressed concerns about the Student's ability to safely access the educational environment because she had difficulty maintaining her balance, sitting and standing with her [REDACTED] and speaking without drooling. (D1, p.11; Parent Testimony.) The Parent informed the Evaluation Team that the difficulties were due to the Student's [REDACTED] and the resulting muscle stiffness. (Parent Testimony.)

20. The Evaluation Team agreed that the Student had a disability. (Wilson Testimony.) However, the Student was "progressing at such an expedited rate that there was no suspicion of a need for specially designed instruction . . . None of the [DAYC and BSITD] scores indicated profound delay across the areas [of concern]." (Wilson Testimony.) As a result, the Evaluation Team concluded that the Student did not suffer adverse educational impact as a result of her disability, and even if she did, the Student's motor skills did not require SDI. (D1, p.11; Wilson Testimony.) Therefore, the Evaluation Team concluded that the Student was not eligible for special education services. (*Id.*)

21. The District recommended that the Student attend a developmental preschool where related services could be provided to allow the Student to access the educational environment safely, and that the Parent could request another evaluation of the Student in 6-9 months. (D1, pp.11-12; Wilson Testimony; Stanford Testimony, Little Testimony.)

22. The Parent filed a due process hearing request on May 3, 2025.

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 between the age of three and twenty-one years. WAC 392-172A-02000. 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).

Applicable Law

4. When a student is receiving early intervention programs under Part C of the IDEA, and will participate in preschool programs under Part B of the IDEA, “each school district will participate in transition planning conferences . . . for each student who may be eligible for preschool services at least ninety days prior to the student’s third birthday.” WAC 392-172A-02080(1) and (2). “Within twenty-five (25) days following the transition planning conference . . . a determination whether or not to evaluate the student for Part B will be made,” and by a student’s third birthday, if the student is eligible for Part B special education services an IEP must be developed. WAC 392-172A-02080(1) and (3).
5. The school district’s burden of proof relates to the procedural appropriateness of the district’s evaluation. See *Avila v. Spokane Sch. Dist.* 81, 686 F. App’x 384 (9th Cir. 2017) (upholding review of appropriateness of district evaluation in response to IEE request). Decisions about how to evaluate a student are left to the district’s discretion. Indeed, “[t]he IDEA does not prescribe substantive goals for an evaluation, but provides only that it be ‘reasonably calculated to enable the child to receive

educational benefits.’” *J.S. v. Shoreline Sch. Dist.*, 220 F. Supp. 2d 1175, 1185 (W.D. Wash. 2002). Therefore, when reviewing the appropriateness of a school district’s evaluation, the focus is on whether the district adequately followed the procedures in conducting the evaluation, not the substantive result of the evaluation. *E.P. By & Through J.P. v. Howard Cty. Pub. Sch. Sys.*, No. CV ELH-15-3725, 2017 WL 3608180, at *18 (D. Md. Aug. 21, 2017), *aff’d sub nom. E.P. v. Howard Cty. Pub. Sch. Sys.*, 727 F. App’x 55 (4th Cir. 2018) (appropriateness of evaluation based on whether proper methodologies were utilized, not results or conclusions); *W. Chester Area Sch. Dist. v. G.D.*, No. CV 16-4471, 2017 WL 379440, at *3 (E.D. Pa. Jan. 25, 2017) (pivotal question for appropriateness of evaluation is whether the district’s methods were adequate); *R.Z.C. by & through David C. v. Northshore Sch. Dist.*, 755 F. App’x 658, 659-660 (9th Cir. 2018) (upholding application of harmless error analysis by Washington ALJ to district evaluation in denying IEE request).

6. Like IEPs, 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 v. Oregon*, 195 F.3d 1141, 31 IDELR 130 (9th Cir. 2001); see also *R.Z.C. v. Northshore Sch. Dist.*, 755 F. App’x 658 (9th Cir. 2018) (holding that while the reevaluations procedures and the reevaluation report itself could have been better, could have been more carefully explained, could have been more comprehensive, or could have been more detailed, the evaluation was appropriate.)

The District’s May 7, 2025, Evaluation of the Student in Motor is Appropriate.

7. When a school district conducts an initial special education evaluation, a “group of qualified professionals selected by the school district” must:

- (a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining:*
 - (i) Whether the student is eligible for special education services as defined in WAC 392-172A-01175; and*
 - (ii) The content of the student’s IEP, including information related to enabling the student to be involved in and progress in the general education curriculum . . .*

WAC 392-172A-03020(2).

8. The group cannot use “any single measure or assessment as the sole criterion” for determining eligibility or educational programming. *Id.* The group must use a variety of technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical, and developmental factors. *Id.*

9. Assessments must be administered by “trained and knowledgeable personnel” and “in accordance with any instructions provided by the producer of the assessments.” *Id.* Students must be assessed “in all areas related to the suspected disability” and the evaluation must be “sufficiently comprehensive to identify all of the student’s special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.” *Id.*

10. WAC 392-172A-03025 concerns the review of existing data. It provides that reevaluation team members must review existing evaluations, information provided by the parents, evaluation data, classroom based observations, and teacher observations, as well as additional data to determine whether the student meets eligibility criteria. *Id.*; see also 34 CFR §300.305.

11. The Parent asserts that the May 7, 2025, Evaluation in Motor is not appropriate because the Student was not evaluated 1) walking into the building from the outside, 2) on uneven ground, or 3) for her general safety in the classroom. The Parent also asserts that the Student’s [REDACTED] and resulting disability will not remediate itself or improve, and that the Student has difficulties safely sitting and standing in the classroom.

12. The District asserts that the May 7, 2025, Evaluation of the Student in Motor is appropriate and comprehensive to determine whether the Student’s disability is eligible for special education services.

13. The record reflects that Mr. Wilson, Ms. Daniels-Hall and Ms. Stanford used a variety of assessment tools and observations, as well as reviewed the Student’s most recent evaluations (DAYC & BSITD) from [REDACTED]. Notably a number of these assessment tools required obtaining information directly from observing and interacting with the Student, input from the Parent, and information from the Student’s Part C intervention services at [REDACTED]. Ms. Daniels-Hall and Ms. Stanford interacted with the Student in the educational environment, and accounted for the fact that the Parent carried the Student into the assessment, as well as the Parent’s safety concerns.

14. While Ms. Daniels-Hall did not testify as to her role in the assessment, Ms. Stanford was present during Ms. Daniels-Hall’s assessment of the Student and corroborated the observations and results Ms. Daniels-Hall recorded in the Evaluation

Report. Moreover, Ms. Stanford testified that she agreed with Ms. Daniels-Hall's recommendations regarding the Student's Fine Motor and Perceptual Motor skills.

15. The Parent has not offered any evidence or testimony that the District failed to use a variety of assessment tools, strategies and technically sound instruments.

16. Given the variety of assessment tools and multiple strategies employed, then, it is concluded that the District's May 7, 2025, Reevaluation of the Student meets the requirements of WAC 392-172A-03020(2).

The District's May 7, 2025, Evaluation of the Student in SLP is Appropriate.

17. 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). 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). But 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).

18. The IDEA does not give a parent the right to dictate specific areas in which a school district must assess a student as part of a special education evaluation. See *Avila v. Spokane Sch. Dist.* 81, 686 F. App'x 384, 385 (9th Cir. 2017) (holding that the school district properly assessed a student for a Specific Learning Disability and rejecting the parents' contention that the district was obligated to administer subtests designed to assess dyslexia and dysgraphia). "The IDEA does not prescribe substantive goals for an evaluation, but provides only that it be 'reasonably calculated to enable the child to receive educational benefits.'" *J.S. v. Shoreline Sch. Dist.*, 220 F. Supp. 2d 1175, 1185 (W.D. Wash. 2022).

19. Screening a student to determine appropriate instructional strategies . . . shall not be considered to be an evaluation for eligibility for special education and related services. WAC 392-172A-03010.

20. Here, the Parent asserts that the Student should have been evaluated in SLP. The District argues that Ms. Little screened the Student, reviewed the documentation available, and correctly determined that evaluating the Student in SLP was unnecessary.

21. A review of the record shows that Ms. Little reviewed a recent SLP evaluation performed by [REDACTED], and that the results showed the Student did not fall outside the normal range for speech and language. Also, Ms. Little testified that she

did observe the Student and gathered information from the Parent about the Student's abilities which had not regressed since the [REDACTED] evaluation. Finally, Ms. Little considered that [REDACTED] was not providing the Student with Part C early intervention services in the area of SLP because the Student was performing within the normal range.

22. Given that the District screened the Student for the purpose of conducting an evaluation in SLP, and the information available did not indicate that the Student's disability impacted her access to the educational environment, it is concluded that the District correctly determined that it was not necessary to evaluate the Student in the area of SLP.

The Student is Not Eligible for Specially Designed Instruction under the IDEA Part B.

23. After the "administration of assessments and other evaluation measures," the parent of the student and qualified professionals "determine whether the student is eligible for special education and the educational needs of the student." WAC 392-172A-03040(1)(a). This group must include a general education classroom teacher and "at least one individual qualified to conduct individual diagnostic examinations of students, such as school psychologist, speech language pathologist, or remedial reading teacher." *Id.* A Student must not be determined eligible if the Student does not "otherwise meet eligibility criteria including presence of a disability, adverse educational impact, and need for specially designed instruction." WAC 392-172A-03040(2)(b).

24. The eligibility determination is critical because absent a determination the Student is eligible for special education and related services, the District owes the Student no duty under the IDEA, and therefore cannot be held responsible for any remedy requested by the Parents. *Durbrow v. Cobb Cty. Sch. Dist.*, 887 F.3d 1182, 1193, 72 IDELR 1 (11th Cir. 2018)(The IDEA confers the right to a FAPE only upon "children with disabilities").

25. A student who is eligible for special education is defined as a student who has a disability in one of thirteen eligibility categories and who, because of the disability and an adverse educational impact, has unique needs that cannot be addressed exclusively through education in general education classes with or without individual accommodations, and needs special education and related services. WAC 392-172A-01035(1)(a). This is in essence a three-part test for special education eligibility.

26. One of the thirteen eligibility categories is “developmental delay.” WAC 392-172A-01035(2)(d)(i). This category is for students ages three through eight who experience developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development or adaptive development. *Id.* To qualify under this category, a child must be two standard deviations below the mean in one of the five areas, or one and a half standard deviations below the mean in two or more of the five areas. *Id.* Districts are not required to use the developmental delay category for students ages three to eight. WAC 392-172A-01035(2)(d)(iii).

27. WAC 392-172A-03035 concerns evaluation reports. It requires that they include: a statement of whether the student has a disability that meets eligibility criteria; a discussion of the assessments and review of data that supports the eligibility conclusion; a discussion of how the disability affects the student’s progress in the general education curriculum; and the recommended special education and related services the student needs.

28. There is no dispute that the Evaluation Team members that made the eligibility determination meet the requirements of WAC 392-172A-03040(1)(a). Also, there is no dispute that Mr. Wilson captured all of the data from the assessments, observations, input and other information required by WAC 392-172A-03035, in the Evaluation Report. The dispute is whether the results of the Motor assessments lead to a conclusion that the Student is, or is not, eligible for Part B special education services.

29. The parties agree that the Student has disabilities, and therefore the first prong of the eligibility determination is met.

30. The second prong of the test, whether the Student’s disability creates an adverse educational impact, is in dispute. The Parent asserts that the Student’s disability adversely impacts her ability to navigate the general education classroom and playground, and her ability to communicate. Specifically, the Parent asserts the Student has difficulties simultaneously standing and focusing on tasks, getting up and down from the floor, and she becomes fatigued. Also, the Student is at risk for choking and has difficulty speaking.

31. The District, on the other hand, argues that the Student operates within the normal range of motor skills and speech and that the Evaluation shows she is independent, determined, and progressing. As a result, the Student’s disabilities do not adversely impact her ability to access her education.

32. Importantly, there is not any information in the record about the Student actually participating in the educational environment, because the Student has not entered a classroom. Given her age, disability, and educational stage, it is unknown what kinds of adversity she will encounter in the classroom and whether the combination of adversity and her disabilities will impact her access to education. Certainly, the Student's safety is paramount, but also of critical importance is her ability to express her independent nature and continue to advance her motor skills and speech development.

33. Given that the Student's assessments all show that her motor skills and speech are within the normal range and progressing quickly, and the testimony of both the Parent and Ms. Stanford that the Student is driven, independent, and progressing, it is concluded that the District has met its burden as to the second prong of the test. The District has shown that the Student's disability, at this time, does not adversely impact her access to education.

34. Even if the Student's disability adversely impacts her access to the educational environment under the second prong of the test, however, there is not sufficient evidence that the Student needs SDI exclusively as an intervention. This is because the Student's assessments reflect that she is in the normal range and progressing quickly in Motor skills, and any challenges posed by her disability implicate medical intervention, not educational intervention.

35. The Parent's concerns, however, are well taken. The Student is about to access a rather unknown educational environment that poses challenges and safety concerns. While the District is not required to offer the Student SDI, the District does have the obligation to offer the Student a safe and accessible educational environment as per WAC 392-172A-01035, which provides:

(c) If it is determined, through an appropriate evaluation, that a student has one of the disabilities defined in (a) of this subsection, but only needs a related service and not special education services, the student is not a student eligible for special education services . . . School districts and other public agencies must be aware that they have obligations under other federal and state civil rights law and rules . . . that apply to students who have a disability.

(d) Speech and language pathology . . . physical therapy, and occupational therapy services, may be provided as [SDI] if the student requires those therapies as [SDI], and meets the eligibility requirements which include a disability, adverse educational impact, and need for

pecially designed instruction. They are provided as a related service under WAC 392-172A-01155 when the service is required to allow the student to benefit from [SDI].

36. The record before this tribunal shows that the District carried its burden and has shown that, while the Student has disabilities, the disabilities do not adversely impact the Students' education and SDI is not required as an intervention. Regardless, the Student and the Parent have opportunities to access related services to support the Student in the classroom, and ensure the Student can safely participate in the educational environment.

Remedies

37. Because the District has carried its burden and shown that the May 7, 2025, Evaluation of the Student is appropriate and that the Student is not eligible for special education services, the Parent is not entitled to the relief requested.

ORDER

Based on the above findings of fact and conclusions of law, it is THEREFORE HEREBY ORDERED:

1. The District has carried its burden and has shown that the May 7, 2025, Evaluation is appropriate; and
2. That the District correctly determined that the Student is not eligible for Part B of the IDEA special education services.
3. The Parent is not entitled to her requested remedies.

SERVED on the date of mailing.



Courtney Beebe
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:

Parent

[REDACTED]
[REDACTED]

via E-mail

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Dated September 10, 2025, at Spokane Valley, Washington.

Lan Le

Representative
Office of Administrative Hearings
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cc: Administrative Resource Services, OSPI