

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

North Thurston School District

Docket No. 04-2025-OSPI-02525

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

Agency: Office of Superintendent of
Public Instruction
Program: Special Education
Cause No. 2025-SE-0057

A due process hearing was held before Administrative Law Judge (ALJ) L'Nayim Shuman-Austin on October 1–2, 2025, in person at North Thurston School District. The Parent of the Student whose education is at issue¹ appeared and represented himself. The North Thurston School District (District) was represented by Lynette Baisch, attorney at law. Reid Roberts, attorney for the District, observed the hearing. Dr. Kari Lewinsohn, Executive Director of Special Education, also appeared on behalf of the District.

STATEMENT OF THE CASE

Procedural History

The Parent filed a due process hearing request (Complaint) on April 16, 2025. The matter was assigned to ALJ Marek Falk on April 18, 2025. A prehearing conference was held on May 20, 2025. A May 22, 2025, First Prehearing Order set forth hearing issues, and scheduled a readiness conference for September 15, 2025, and an in-person hearing for October 1–2, 2025, at a District facility.

On May 23, 2025, the Parent filed an objection to the prehearing order. On May 29, 2025, the District filed a response to the objection. On June 3, 2025, ALJ Falk issued an Order Partially Granting Parent's Objection to First Prehearing Order and Resetting Issues, amending the hearing issues and remedies. The Order further indicated that the Parent had the right to file an amended complaint.² The Parent did not file an amended complaint.

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

² June 3, 2025, Order Partially Granting Parent's Objection to First Prehearing Order and Resetting Issues, at 7-8, ¶¶40-43.

A readiness conference was held on September 15, 2025. That same day, ALJ Falk issued an Order Setting Location and Adjusting Time of Hearing. The Order did not amend any issues or remedies. On September 18, 2025, the matter was reassigned to ALJ Shuman-Austin. The hearing was held as scheduled on October 1–2, 2025.

Due Date for Written Decision

The due date for a written decision in this matter is December 7, 2025.

EVIDENCE RELIED UPON

Exhibits Admitted:³

District's Exhibits: D1-D11

Parents' Exhibits: P1-P2, P6-P12, P14-P17⁴

Witnesses Heard:

Brittany Anderson, Principal, Olympic View Elementary

Dr. Kari L. Lewinsohn, District Executive Director of Special Education

Ms. Parent (Mother)

Mr. Parent (Father)

ISSUES

The June 3, 2025, Order Partially Granting Parent's Objection to First Prehearing Order and Resetting Issues, outlined the following issues and remedies for hearing:

- a. Whether the District violated the Individuals with Disabilities Education Act (IDEA) and denied the Student a free appropriate public education (FAPE) by:
 - i. Dating the District's 2022 initial evaluation with a date from eight months before the Student enrolled in the District; and

³ Exhibits are cited by party ("P" for Parents; "D" for District), exhibit number, and page number. For example, a citation to P1 at 5 is to the Parent's Exhibit 1 at page 5. The hearing transcript is cited as "Tr." with references to the page of the cited testimony. For example, a citation to Tr. 80 refers to testimony at page 80 of the transcript.

⁴ Many of the Parent's exhibits were heavily marked with red or black ink notes and highlighter (P1-P2, P6-P12, P14-P15). The ALJ admitted these documents, but ruled that the ALJ would not consider the notes, markings or the highlights when considering the exhibits. Other Parent exhibits (P16-P17) were admitted solely to reflect the Parent's notes based on recordings taken during meetings with the District on October 11, 2024, and May 29, 2024. WAC 10-08-140(1)-(3).

- ii. Failing to conduct a mental health evaluation after learning of the Student's threat of [REDACTED] around May 2024.
- b. And, whether the Father is entitled to his requested remedy:
 - iii. Any equitable remedies, as appropriate.

FINDINGS OF FACT

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

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

The Student

1. The Student is [REDACTED]. D1 at 3. On February 8, 2022, the Student enrolled in and began attending Kindergarten half-days at Olympic View Elementary (Olympic View) in the District. P1; Tr. 76-77 (Anderson). The Student is currently enrolled at Olympic View as a second grader for the 2025-2026 school year. D5 at 3.

2021-2022 SCHOOL YEAR

May 2022 Special Education Evaluation

2. On or around February 21, 2022, a few weeks after the Student enrolled at in kindergarten Olympic View, the school referred him for a special education evaluation. D1 at 1; Tr. 110 (Lewinsohn). The referral noted the Student was currently working 1:1

with a behavior associate for behavior concerns, had a shortened day, and received breaks outside the classroom with a behavior paraprofessional when needed. D1 at 3.

3. In April 2022, the Student's cognitive, social/emotional and academic skills were assessed using the Behavior Assessment System for Children, Third Edition (BASC-3), the Pearson Differential Ability Scales-II (DAS-II); and the Weschler Individual Achievement Test – fourth edition (WIAT IV). D1 at 8-22; Tr. 129 (Lewinsohn).

4. On April 19 and April 20, 2022, both the Mother and Ruthanne Ekwealor, school psychologist, completed the BASC-3 to assess the Student's social/emotional skills. D1 at 8-11; Tr. 129 (Lewinsohn). Ms. Ekwealor's BASC-3 test results indicated that the Student was at risk for adaptive skills, atypicality, adaptability and social skills. D1 at 11. On April 21, 2022, Ms. Ekwealor assessed the Student's cognitive abilities with the DAS-II. D1 at 12-13. The Student scored "below average" on the DAS-II in general cognitive ability (GCA), verbal, spatial, verbal comprehension, and naming vocabulary, and "low" in copying. *Id.* Ms. Ekwealor also observed the Student in his kindergarten classroom on May 6, 2022. D1 at 22.

5. On April 20, 2022, Courtney Dotson, special education teacher, administered the WIAT IV to assess the Student's academic performance. D1 at 14-15. Compared to same-age peers, the Student scored in the 2nd percentile ("below average") in reading; in the 0.8th percentile ("low") in written expression; in the 0.3rd percentile ("low") in mathematics; and in the 0.8th percentile ("low") in spelling. D1 at 15.

6. On April 28, 2022, Matthew Hart, Occupational Therapist (OT), administered the Beery-Buktenica Developmental Test of Visual Motor Integration – sixth edition (Beery VMI), to assess the Student's fine motor skills. D1 at 20-21; D2 at 1. The Student scored in the 9th percentile ("below average") in visual-motor integration, and in the 1st percentile ("very low") in motor coordination. D1 at 21.

7. On May 6, 2022, the school scheduled a meeting for May 20, 2022, to discuss the Student's special education evaluation. D1 at 1. The notice was sent to the Mother, but does not indicate that it was sent to the Father. *Id.*

8. Participants at the May 20, 2022, meeting reviewed the Student's May 2022 Evaluation, and the Student's assessments in cognitive, social/emotional and academic skills. D1. Teacher input indicated that the Student was below grade level in reading and math, and was unable to write his name, and exhibited expressive language concerns and challenging classroom behavior. D1 at 8. The evaluation noted that the Student was an "emotional child," and that the mother had received a referral for behavioral health services outside school. D1 at 8. The evaluation did not mention

any history of [REDACTED]. D1. The evaluation determined that the Student qualified to receive special education under the category of “developmental delays,” and recommend that the Student receive specially designed instruction (SDI) in math, reading, written language, speech and language (both receptive and expressive as well as pragmatic language), and social skills. D1 at 3, 5.

9. Participants at the May 20, 2022, meeting also reviewed a Functional Behavior Assessment (May 2022 FBA) completed by the District with the assistance of the Mother, Ms. Ekwealor, Cathy Kendig (the Student’s general education teacher), Ms. Dotson, Wendy Eliason (Speech/Language Pathologist (SLP)), and Mr. Hart (OT). D2 at 2; Tr. 130-131 (Lewinsohn). The FBA outlined behavior data collected between February 6, 2022 through May 15, 2022, and proposed targeting the behaviors of elopement, physical aggression, disruption and defiance. D2 at 3. The FBA noted that factors contributing to the Student’s behaviors included recovering from trauma, [REDACTED] and bullying at his previous school. *Id.* The FBA further noted that the Student received speech therapy (ST) and OT from Mary Bridge in Olympia, and support from a 1:1 behavior specialist at school. *Id.* at 2-3. The FBA did not mention of any history of [REDACTED]. D1.

10. A prior written notice (PWN) dated May 20, 2022, requested the Mother approve an extension of the completed evaluation until May 24, 2022. D1 at 26. On May 24, 2022, Ms. Eliason, SLP, assessed the Student’s speech and language skills with the Clinical Evaluation of Language Fundamentals, Preschool, 3rd Edition (CELF P 3) and the Goldman Fristoe Test of Articulation, 3rd Edition (GFTA-3). D1 at 16-19. On the CELF P 3, the Student scored between the 2nd and 3rd percentile (“below average”) on all six subtests, resulting in an index score of 3rd percentile (71) in receptive language, and 2nd percentile (68) in expressive language. D1 at 16, 18. On the GFTA-3, the Student scored in the 23rd percentile for sounds in error. D1 at 17, 19. Based on test results, Ms. Eliason recommended that the Student also receive SDI in communication. D1 at 17.

June 2022 IEP

11. On June 3, 2022, a meeting was held to develop an initial Individualized Education Program (IEP) for the Student. D3. The IEP team, including the Mother, noted that the Student’s most recent evaluation occurred on May 20, 2022. D3 at 3. The IEP team further noted that during the Easy CBM Spring 2022 district-wide assessment, the Student scored in the 1st percentile (“High Risk”) for letter sounds; 8th percentile (“High Risk”) for phoneme segmenting; 2nd percentile (“High Risk”) for word reading fluency; and 6th percentile (“High Risk”) for Math. D3 at 5.

12. The Student's current K-2 teacher, Ms. Kendig, reported that the Student needed specific directions prior to transitions and consistent reviewing of expectations to be successful. D3 at 3, 7. Ms. Kendig further noted that Student was working on learning the letters in his name, numbers 1-10, and matching quantities to numerals. D3 at 7.

13. An IEP was developed for the Student for the period of June 3, 2022 through June 2, 2023 (June 2022 IEP). D3. Consistent with the recommendations in the May 2022 Evaluation, the IEP outlined SDI in math, reading, written language, speech and language, and social skills. *Compare*, D1 at 5; D3 at 7-9. The IEP also recommended OT services to assist the Student with copying letters, and noted that the Student had a Behavior Intervention Plan (BIP). D3 at 9.

14. The June 2022 IEP included one social/emotional goal focusing on emotional regulation; one math goal focusing on identifying the numbers 1-10; one reading goal identifying the 26 letters of the alphabet and providing letter names and sound; and one writing goal focusing on writing his name. D3 at 7-8.

15. In outlining speech and language goals, the June 2022 IEP referenced the Student's initial evaluation, and his May 2022 CELF P 3 scores for receptive language and expressive language. D3 at 8-9. The IEP included two speech and language goals: a receptive/expressive language goal focusing on using accurate phrases and sentences to make choices and request, ask/answer questions; and a pragmatic/social language goal focusing on social language skills by using appropriate greetings and comments, improving from 10% to 50%. *Id.*

16. The June 2022 IEP special education and related services matrix provided the Student with 420 minutes total SDI per week:

Special Education and Related Services													
Meeting Date: <u>06/03/2022</u>													
PURPOSE: The information on this page is a summary of the student's program/services, including when services will begin, where they will be provided, who will be responsible for providing them, and when they will end.													
Services 06/03/2022 - 06/02/2023													
Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date						
Related													
No	Occupational Therapy	Occupational Therapist	Occupational Therapist	25 Minutes / 1 Times Weekly	Special Education	06/03/2022	06/02/2023						
Special Education													
No	Speech & Language Therapy	Speech Language Pathologist	Speech Language Pathologist	30 Minutes / 1 Times Weekly	Special Education	06/03/2022	06/02/2023						
No	Social Skills	Special Education Teacher	Special Education Teacher	20 Minutes / 2 Times Weekly	Special Education	06/03/2022	06/02/2023						
No	Reading	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	06/03/2022	06/02/2023						
No	Written Language	Special Education Teacher	Special Education Teacher	15 Minutes / 5 Times Weekly	Special Education	06/03/2022	06/02/2023						
No	Math	Special Education Teacher	Special Education Teacher	20 Minutes / 5 Times Weekly	Special Education	06/03/2022	06/02/2023						
Total minutes per week student spends in school:				1800 minutes per week									
Total minutes per week student is served in a special education setting:				420 minutes per week									
Percent of time in general education setting:				76.67% in General Education Setting									

D3 at 14. The IEP did not identify psychological or counseling services as related services. *Id.* The IEP did not mention any history of [REDACTED]. D3.

17. A PWN dated May 3, 2022, the same day as the IEP invitation, informed the Mother that the school proposed initiating the IEP on June 3, 2022. D3 at 18; Tr. 134 (Lewinsohn). The PWN referenced the June 3, 2022 IEP meeting, but also referenced an evaluation from June 2021, before the Student enrolled in the District:

A description of each procedure, test, record, or report we used or plan to use as the basis for taking this action is as follows:

A review of the eligibility reports done on 6/11/2021, parent input, and skilled observation were used to develop this plan.

Id.

18. Dr. Kari L. Lewinsohn, Executive Director of Special Education,⁵ explained that the June 3, 2022 date in the PWN referred to the date of the IEP meeting. D3 at 18; Tr. 135 (Lewinsohn). Dr. Lewinsohn further explained that the June 11, 2021 date referenced in the May 2022 PWN was a typographical error, and that the District did not have any evaluations for the Student other than the May 2022 evaluation. Tr. 135-136 (Lewinsohn). After discovering the error, Dr. Lewinsohn questioned school staff about how the June 2021 date might have been included in the PWN, and could not find the source of the mistaken date. *Id.* She acknowledged that the school did not complete its special education evaluation until May 2022, and asserted that the IEP was based solely on the May 2022 Evaluation. *Id.*

2022-2023 SCHOOL YEAR

May 2023 IEP

19. The Student repeated kindergarten during the 2022-2023 school year. P6; Tr. 100 (Mother). A June 9, 2022, Out-of-Grade-Level Letter of Agreement (June 2022 Agreement) indicates that the decision was based on Student need and by agreement of the Mother, Ms. Kendig, and Brittany Anderson,⁶ Principal at Olympic View. P6.

⁵ Dr. Lewinsohn is the District's Executive Director of Special education. Tr. 126 (Lewinsohn). Dr. Lewinsohn holds a Doctorate in Special Education, a Master's in curriculum and instruction, a Master's in administration and education, and a Bachelor's in elementary education with endorsements in special education, literacy education and early childhood education. *Id.* at 126-127.

⁶ Ms. Anderson is the Principal at Olympic View Elementary and has held this position for the past four years. Tr. 62 (Anderson). Ms. Anderson holds Washington State certifications in public school administration, elementary education, and special education. *Id.* at 62-63. She also holds degrees in elementary education, special education, and administration. *Id.* at 63.

20. On May 23, 2023, the IEP team met to update the Student's IEP (May 2023 IEP). P14. The IEP team, including the Mother, agreed that the Student still required SDI in the areas of communication, math, writing, reading, fine motor and social skills. P14 at 20.

21. The May 2023 IEP included one social/emotional goal; one math goal; two reading goals; and one writing goal. P14 at 11-12. The May 2023 IEP also included two speech and language goals: a goal focusing on using appropriate phrases and sentences to make choices and request, ask/answer questions, and/or comment improving pragmatic language, receptive and expressive skills; and a goal focusing on sequencing a 4 part story/event, improving receptive and expressive language. P14 at 12-13. The IEP also outlined one OT/fine motor goal and noted the Student had a BIP. P14 at 13-14. See also, P9.

22. The May 2023 IEP special education and related services matrix provided the Student with 360 minutes total SDI per week:

Special Education and Related Services							
Meeting Date: <u>05/25/2023</u>							
PURPOSE: The information on this page is a summary of the student's program/services, including when services will begin, where they will be provided, who will be responsible for providing them, and when they will end.							
Services 05/25/2023 - 05/24/2024							
Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (Setting)	Start Date	End Date
Related							
No	Occupational Therapy	Occupational Therapist	Occupational Therapist	25 Minutes / 1 Times Weekly	Special Education	05/25/2023	05/24/2024
Special Education							
No	Speech & Language Therapy	Speech Language Pathologist	Speech Language Pathologist	30 Minutes / 1 Times Weekly	Special Education	05/25/2023	05/24/2024
No	Social Skills	Special Education Teacher	Special Education Teacher	20 Minutes / 3 Times Weekly	Special Education	05/25/2023	05/24/2024
No	Reading	Special Education Teacher	Special Education Teacher	30 Minutes / 5 Times Weekly	Special Education	05/25/2023	05/24/2024
No	Written Language	Special Education Teacher	Special Education Teacher	15 Minutes / 5 Times Weekly	Special Education	05/25/2023	05/24/2024
No	Math	Special Education Teacher	Special Education Teacher	20 Minutes / 1 Times Weekly	Special Education	05/25/2023	05/24/2024
Total minutes per week of building instructional time available for this student (excluding lunch):							
<u>1800 minutes per week</u>							
Total minutes per week student is served in a special education setting: <u>360 minutes per week</u>							
Percent of time in general education setting: <u>80% in General Education Setting</u>							

P14 at 17. The IEP did not identify psychological or counseling services as related services. *Id.* The IEP did not mention any history of [REDACTED]. P14.

23. A PWN dated May 1, 2023 (May 2023 PWN), informed the Mother that the school proposed initiating the IEP on May 26, 2023. P14 at 20. See also, P7 at 1. The PWN again referenced an evaluation from June 2021:

A description of each procedure, test, record, or report we used or plan to use as the basis for taking this action is as follows:

A review of the eligibility reports done on 6/11/2021, parent input, and skilled observation were used to develop this plan.

Id.

24. Dr. Lewinsohn again asserted that the June 11, 2021, date referenced in the May 2022 PWN was a typographical error, emphasizing that the District did not have any evaluations for the Student other than the May 2022 evaluation. Tr. 135-136 (Lewinsohn).

25. The District completed IEP progress reports in June 2023. D6 at 1-4.

2023-2024 SCHOOL YEAR

May 2024 Safety Incident

26. The Student began the 2023-2024 school year in first grade. P8. The District continued to monitor the Student's progress toward his IEP goals in November 2023, February 2023, and April 2024. D6 at 1-4.

27. In early May 2024, the Student's teacher, Eve Wood, called the Student's Mother and informed her that the Student had said [REDACTED] [REDACTED] Tr. 96-97 (Mother). See also, P12 at 3 (04/29/24 entry). Ms. Wood also informed the Olympic View Principal, Brittany Anderson, about the Student's statement of [REDACTED] D4; Tr. 64, 91-92 (Anderson).

28. Ms. Anderson met with Ms. Wood, the school counselor J.J. Pritchett, and the Student's case manager. D4; Tr. 64, 91-92 (Anderson). At the meeting, they decided to follow through with the District's [REDACTED]. *Id.* The District's [REDACTED]

[REDACTED]. D4; Tr. 65-66 (Anderson).

29. On May 6, 2024, the Student met with Ms. Pritchett and Teresa Wolfe, the school mental health counselor, to discuss the comment. D4; Tr. 65-66 (Anderson). Ms. Pritchett and Ms. Wolfe completed the [REDACTED]

questionnaire (May 2024 Risk Assessment) to assess the Student's [REDACTED] [REDACTED] and created a Student Safety Plan (May 2024 Safety Plan). D4 at 1-4; Tr. 64-67 (Anderson).

30. The May 2024 Risk Assessment noted that the Student struggled to identify his current stress level or fully explain or articulate his feelings, and that while he ideated about a [REDACTED] D4 at 1. The assessment further indicated that the Student exhibited [REDACTED] [REDACTED] [REDACTED] (feeling slightly down), and stable relationships. *Id.* However, the Student also exhibited a moderate risk in a current [REDACTED] [REDACTED]. *Id.*

31. Ms. Pritchett and Ms. Wolfe also discussed the May 2024 Safety Plan with the Student. D4 at 3-4; Tr. 67-68 (Anderson). The plan indicated that the Student's triggers included feeling left out and misunderstood. *Id.* The plan further provided that if the Student felt overwhelmed, upset or [REDACTED] would speak to trusted family members at home, or to trusted adults at school, and identified the trusted adults. *Id.* The Student verbally agreed to reach out to his teacher, Ms. Anderson, or Ms. Pritchett if he needed any help. D4 at 4.

32. On May 7, 2024, Ms. Pritchett met with the Mother in her office and discussed the May 2024 Safety Plan. D4 at 5; Tr. 68 (Anderson); Tr. 98-99 (Mother). Ms. Pritchett also spoke separately with the Father by telephone. D4 at 5. The Mother signed a release to allow the school to talk to the Student's outside behavioral health provider about the Student's mental health concerns after the May 2024 Risk Assessment. D12 at 2; Tr. 102 (Mother). There have been no further reports of [REDACTED] comments by the Student at school since May 2024. Tr. 68, 91 (Anderson).

33. After the risk assessment process, the District did not initiate a special education reevaluation because it believed the Student had correct services in place. Tr. 68 (Anderson). The Mother believed that the school responded appropriately to the incident. Tr. 98-99 (Mother). The Mother agreed with the school's determination that the Student was at low risk, and believed he had appropriate supports in school regarding his big emotions. Tr. 99-100 (Mother).

34. Neither the Mother nor the Father requested that the District initiate a special education reevaluation of the Student after this process. Tr. 68 (Anderson).

May 2024 IEP

35. On May 23, 2024, the IEP team met to update the Student's IEP (May 2024 IEP). D5; Tr. 69 (Anderson). See also, P15. The IEP team noted that during the Easy CBM Spring 2024 assessment, the Student scored in the 22% percentile ("Some Risk") for letter sounds; 7th percentile ("High Risk") for word reading fluency; 10th percentile ("High Risk") for reading fluency; and 26th percentile ("Low Risk") for Math. D5 at 5. The IEP team, including the Mother, agreed that the Student still required SDI in the areas of communication, math, writing, reading, fine motor and social skills. D5 at 18.

36. The May 2024 IEP included one social/emotional goal; one math goal; two reading goals; and one writing goal focusing. D5 at 7-9. The May 2024 IEP included two speech and language goals: a goal focusing on responding to undesired peer responses (i.e. not wanting to play, others saying "no" to requests, etc.) by using appropriate phrases and sentences to improve pragmatic, receptive and expressive language skills; and a goal focusing on sequencing a 4+ part story/event, improving receptive and expressive language. D5 at 9-10. The IEP outlined one OT/fine motor goal and also noted the Student had a BIP. D5 at 9-11.

37. The May 2024 IEP special education and related services matrix provided the Student with 360 minutes total SDI per week:

Special Education and Related Services													
Meeting Date: <u>05/23/2024</u>													
PURPOSE: The information on this page is a summary of the student's program/services, including when services will begin, where they will be provided, who will be responsible for providing them, and when they will end.													
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Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date						
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Special Education													
No	Speech & Language Therapy	Speech Language Pathologist	Speech Language Pathologist	30 Minutes / 1 Times Weekly	Special Education	05/24/2024	05/23/2025						
No	Social Skills	Special Education Teacher	Special Education Teacher	20 Minutes / 3 Times Weekly	Special Education	05/24/2024	05/23/2025						
No	Reading	Special Education Teacher	Special Education Teacher	45 Minutes / 5 Times Weekly	Special Education	05/24/2024	05/23/2025						
No	Written Language	Special Education Teacher	Special Education Teacher	20 Minutes / 5 Times Weekly	Special Education	05/24/2024	05/23/2025						
No	Math	Special Education Teacher	Special Education Teacher	20 Minutes / 1 Times Monthly	Special Education	05/24/2024	05/23/2025						
Total minutes per week of building instructional time available for this student (excluding lunch):				1800 minutes per week									
Total minutes per week student is served in a special education setting:				440 minutes per week									
Percent of time in general education setting:				75.56% in General Education Setting									

D5 at 20. The IEP did not identify psychological or counseling services as related services. *Id.* The IEP did not mention the Student's [REDACTED]. D5.

38. A PWN dated April 29, 2024 (April 2023 PWN), informed the Mother that the school proposed initiating the IEP on May 23, 2024. D5 at 18. The PWN did not reference an evaluation from June 2021. *Id.*

2023-2024 SCHOOL YEAR

October 2024 Revocation of Services

39. The Student began the 2024-2025 school year in second grade. P10; Tr. 197-198 (Father).

40. On October 1, 2024, the Father came to Olympic View's front office to ask for a meeting to review the Student's IEP. D7; Tr. 71-72 (Anderson). Ms. Anderson e-mailed staff to set up an IEP meeting with the Student's Father. *Id.*

41. The school held an IEP meeting with the Father on October 11, 2024.⁷ Tr. 72 (Anderson). Ms. Anderson attended the meeting and recalled that the Father expressed concerns about the Student's mental health. Tr. 72-73 (Anderson). The IEP team did not have any mental health concerns, but asked the Father how they could help support the Student and offered to reevaluate the Student. *Id.*

42. That same day, the Father submitted a written request to withdraw the Student from special education services, and also requested an Independent Education Evaluation (IEE). D8; D9 at 4-5; Tr. 137 (Lewinsohn). The Father's request provided, in relevant part:

This is my written consent to remove my son [Student] [REDACTED] from I.E.P. services at Olympic View Elementary affective [sic] immediately. . . .

. . . I would like to withdraw my son from further I.E.P. and Behavioral services at Olympic View Elementary within the North Thurston School District. I would like to have an I.E.E. done and also would like to have [Student] evaluated for trauma he endured at his previous school as a possible cause for his mental block/delay.

D8; Tr. 137 (Lewinsohn).

⁷ The Father recorded this meeting and transcribed the recording with the assistance of an on-line transcriber. D16. The recording was admitted solely as the Father's notes, as there is no verification of which attendees spoke or certification of the authenticity of the statements made during the meeting.

43. On October 14, 2024, Dr. Lewinsohn e-mailed both Parents informing them that it had received the IEE request and would review and issue a response by October 25, 2024. D9 at 4-5; Tr. 138 (Lewinsohn). That same day Father responded by e-mail "Please see my removal from I.E.P," and sent a second e-mail indicating he was withdrawing his request for an IEE. D9 at 2-3; Tr. 138-139 (Lewinsohn).

44. In response, Dr. Lewinsohn issued a PWN documenting that the Father had withdrawn his request for an IEE. D9 at 2; Tr. 139 (Lewinsohn). The Father again requested to confirm that the school had received his request to withdraw the Student from IEP services, and Dr. Lewinsohn confirmed receiving the request. D9 at 1; *Id.*

45. On October 28, 2024, the Father signed a Revocation of Consent for Services, and handwrote the following below his signature: "I revoke my consent for any further testing or evaluations." D10; Tr. 139 (Lewinsohn). The Student has not been reenrolled in special education services since October 2024. Tr. 73 (Anderson).

Father's Testimony

46. The Father was not involved in the Student's services at Olympic View prior to May 2024. Tr. 189-190 (Father). He first became involved after he received a call from the Student's mother on May 4, 2024, informing him about the Student's [REDACTED] in school. *Id.* After receiving this call, the Father immediately went to the school to observe the Student's special education class, and requested the Student's records. Tr. 189-190 (Father).

47. When reviewing the Student's educational records, the Father noted that some of the records referred to eligibility results from June 2021, which was eight months before the Student enrolled in school. D3 at 18; P14 at 20; Tr. 182, 185 (Father). The Father further noted that within a week of enrolling at Olympic View, the Student was referred for an IEP and that his services increased every year. Tr. 193 (Father).

48. During the October 11, 2024 IEP meeting, the Father asked about the June 2021 date listed in the Student's records, the Student's [REDACTED], and the Student's increasing IEP services. Tr. 190-192, 194-195 (Father). The Father rejected the District's offer to conduct an updated evaluation, and instead revoked special education services on October 14, 2024. Tr. 192-193 (Father).

49. The Father explained that he attempted to learn what was making the Student [REDACTED], and believed that no one could answer him. Tr. 194 (Father). The Father opined that something must have been making him uncomfortable at school for him to make the comments. Tr. 194-195 (Father). The Father opined that increasing special education services each year might have been

the source of his discomfort, expressing that all of his negative behaviors stopped since special education services terminated. Tr. 195 (Father).

50. The Father opined that the District improperly relied on outdated eligibility results from June 2021, and that these outdated results were improperly used to determine the Student's IEP services. D3 at 18; P14 at 20; Tr. 182, 185 (Father). The Father asserted that by using outdated test results, the District denied the Student an accurate assessment of his educational needs and prevented the IEP team from creating a plan that addressed his present levels of performance. *Id.*

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

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

2. The District bears the burden of proof in this matter. RCW 28A.155.260(1). In a due process hearing, the burden of proof is a preponderance of the evidence. RCW 28A.155.260(3).

The IDEA and FAPE

3. Under the IDEA, a school district must provide a free and appropriate public education (FAPE) to all eligible children. In doing so, a school district is not required to provide a "potential-maximizing" education, but rather a "basic floor of opportunity." *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 200-201 (1982).

4. In *Rowley*, the U.S. Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the IDEA. The first question is whether the state has complied with the procedures set forth in the IDEA. The second question is whether the individualized education program developed under these procedures is reasonably calculated to enable the child to receive educational benefits. "If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more." *Rowley*, 458 U.S. at 206-07.

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

- (I) impeded the child's right to a free appropriate public education;
- (II) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents' child; or
- (III) caused a deprivation of educational benefits.

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

6. "To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). In reviewing an IEP, "the question is whether the IEP is *reasonable*, not whether the court regards it as *ideal*." *Id.* at 999 (emphasis in original). The determination of reasonableness is made as of the time the IEP was developed. *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). An IEP is "a snapshot, not a retrospective." *Id.*

Issue A.i – The District Did Not Violate IDEA or Deny the Student FAPE by Including an Erroneous Initial Evaluation Date in the Student's IEPs

7. In post-hearing briefing, the Father asserts that the District failed to conduct an updated evaluation at enrollment, and instead based the Student's IEP on an evaluation conducted eight months prior to the Student's enrollment at Olympic View. PB at 1-2. Citing WAC 392-172A-03035 and WAC 392-17A-03015(2)(b), the Father argues that without accurate, current evaluation data, the District could not meaningfully identify or address the Student's needs. PB at 2. In response, the District argues that it conducted its initial and only evaluation of the Student in May 2022, and relied on that initial evaluation when developing the Student's May 2022 IEP. DB at 9-11. The District argues that the June 11, 2021, typographical error contained in the PWNS did not impact the Student's services or IEPs. DB at 11. The undersigned concludes that the District is correct. The District relied on a current evaluation conducted in May 2022, and the erroneous date referenced in the PWNS had no effect on the Student's resulting IEPs.

8. The IDEA and Washington Administrative Code (WACs) outline the process and procedure for conducting special education evaluations and development of IEPs. If a

district decides to complete an evaluation, it must comply with the requirements laid out in WAC 392-172A-03005 to 03040. Further, special education reevaluations must be completed within “[t]hirty-five school days after the date written consent for an evaluation has been provided to the school district by the parent.” WAC 392-172A-03015(3)(a).

9. When conducting an initial special education evaluation of a student, a district is required to “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student.” WAC 392-172A-03020(2)(a). The district must “[n]ot use any single measure of assessment as the sole criterion” to determine if a student is eligible for special education. WAC 392-172A-03020(2)(b). The district must also ensure “[t]he student is assessed in all areas related to the suspected disability.” WAC 392-172A-03020(2)(e)

10. An evaluation report must 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. WAC 392-172A-03035. See also, 34 CFR §300.304-.306.

11. In developing each student’s IEP, the IEP team must consider the strengths of the student; the concerns of the parents for enhancing the education of their student; the results of the initial or most recent evaluation of the student; and the academic, developmental, and functional needs of the student. WAC 392-172A-03110(1).

12. Here, the Student enrolled at Olympic View on February 8, 2022. On or around February 21, 2022, the school referred the Student for a special education evaluation. A special education evaluation was completed between April 19-28, 2022. The evaluation assessed the Student’s cognitive, social/emotional, academic and fine motor skills. On May 24, 2022, the District also completed a speech evaluation of the Student. In June 2022, an IEP was developed for the Student based on this current evaluation. However, PWNs issued in May 2022 and May 2023 incorrectly stated that the Student’s June 2022 and May 2023 IEPs were based on an evaluation from June 2021.

13. The Father’s concern that the Student’s resulting June 2022 IEP was based on outdated or improper information from his prior school is unwarranted. Participants at the May 2022 IEP meeting reviewed the May 2022 Evaluation, current assessments and teacher input. The evaluation recommend that the Student receive SDI in math, reading, written language, speech and language, social skills and communication.

14. The resulting June 2022 IEP was consistent with the recommendations in the May 2022 Evaluation. The IEP outlined SDI in math, reading, written language, speech and language, and social skills. There is no evidence indicating that the IEP team relied on any assessment or evaluation completed prior to May 2022.

15. The same is true for the May 2023 IEP. Consistent with the recommendations of the May 2022 Evaluation, the IEP outlined SDI in math, reading, written language, speech and language, and social skills. There is no indication that the IEP team relied on any assessment or evaluation completed prior to May 2022.

16. The evidence clearly reflects that the sentence “eligibility reports done on 6/11/2021,” contained in the PWNs for both the June 2022 IEP and the May 2023, is a typographical error. While there is no indication of how the error was included in the PWNs, the evidence is clear that the school did not complete its special education evaluation until May 2022, that both the June 2022 IEP and the May 2023 IEP are based solely on this evaluation, and that the typographical error did not impede the delivery of appropriate special education services to the Student.

17. In sum, the District’s inclusion of an erroneous evaluation date in the PWNs for the June 2022 IEP and the May 2023 IEP did not deny the Student FAPE. The District has met its burden on this issue and this claim is dismissed.

Issue A.ii – The District Did Not Violate IDEA or Deny the Student FAPE by Failing to Conduct a Mental Health Evaluation After the Student’s Threat of [REDACTED] in May 2024

18. The Father does not address this issue in post-hearing briefing. Rather, citing *Endrew F.*, 580 U.S. at 402, the Father argues that the Student’s IEP was not appropriately ambitious in light of the Student’s circumstances, in part because it did not include supports to meet the Student’s psychological and educational effects of his past trauma. PB at 2. In contrast, the District argues that it appropriately responded after the Student’s single [REDACTED] and that neither Parent requested a reevaluation following the statement. DB at 11-12. The District further argues that the Father’s revocation of special education services prevents it from conducting an evaluation at this time. DB at 13-14. The undersigned concludes that the District is correct.

19. Numerous courts have held that [REDACTED] may qualify a student for special education services under the IDEA. See, e.g., [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] qualified for special education services despite his average or above-

average academic performance on tests because of how these issues interfered with his education); [REDACTED]

[REDACTED] put the school on notice that the child was potentially suffering from a qualifying disability); [REDACTED]

[REDACTED] and mental illness qualified for special education services because such issues affected her attendance and led to several failing grades).

20. Further, under the IDEA and Washington Law, a District may include psychological or counseling services as related services in a Student's IEP. WAC 392-172A-01155(1); 34 C.F.R. § 300.34.

21. However, the undersigned could not find any cases or regulations which require a school district to provide a mental health evaluation to a special education student after a single [REDACTED]. The facts further illustrate that the District responded appropriately to the Student's comment in May 2024, by conducting a [REDACTED] [REDACTED], creating a safety plan, and obtaining consent to provide this information to the Student's outside mental health provider.

22. On May 6, 2024, in response to the Student's comment, the school counselor, mental health counselor and case manager met with the Student, conducted a [REDACTED] [REDACTED] and created a student safety plan. The risk assessment indicated that the Student exhibited [REDACTED]. The safety plan listed the Student's triggers, listed people he could speak to if he was upset or [REDACTED], and identified the trusted adults. On May 7, 2024, the school counselor met with the Mother in her office and discussed safety plan, and spoke separately with the Father by telephone. The Mother signed a release to allow the school to talk to the Student's outside behavioral health provider about the Student's mental health. As of the date of hearing, there have been no further reports of [REDACTED] at school.

23. Considering the evidence as a whole, there is no indication that the District was required to conduct a new evaluation of the Student after his [REDACTED] in May 2024. The District determined that the Student exhibited a [REDACTED], and referred the incident to the Student's outside mental health provider. There is also no indication that the District should have conducted a mental health evaluation in response to a single [REDACTED], rather than conducting a [REDACTED] [REDACTED] creating a safety plan, and referring the Student to his existing mental health provider.

24. Further, neither Parent requested a reevaluation following the Student's statement. Therefore, a reevaluation was not required at that time. WAC 392-172A-03015(1)(b). However, in response to the Father's expressed concerns about the [REDACTED] during the IEP meeting on October 11, 2024, the District offered to conduct an evaluation. The Father thereafter revoked consent for special education services on October 14, 2024. When a parent revokes consent for special education services, the student ceases to be entitled to IDEA protections. *Thomas v. Empire Springs Charter Sch.*, 78 IDELR 131 (C.D. Cal. 2021) (citing 20 U.S.C. § 1414(b)(4)(A); 34 C.F.R. § 300.300(b)(1)).

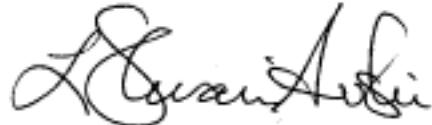
25. In sum, the record reflects that the District has met its burden to show that it did not violate the IDEA or deny the Student FAPE by failing to conduct a mental health evaluation in response to the Student's single [REDACTED] in May 2024.

ORDER

1. The District did not violate the Individuals with Disabilities Education Act or deny the Student a free appropriate public education as set forth in Conclusions of Law 17 and 25.

2. The Parent's requested remedies are denied.

SERVED on the date of mailing.



L'Nayim Shuman-Austin
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 November 14, 2025, at Spokane Valley, Washington.

Lan Le

Representative
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cc: Administrative Resource Services, OSPI