

**WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Issaquah School District

Docket No. 04-2025-OSPI-02516

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

Agency: Office of Superintendent of  
Public Instruction

Program: Special Education

Cause No. 2025-SE-0055

A due process hearing was held before Administrative Law Judge (ALJ) David LeMaster on August 4 - 7, 2025 via videoconference. The Parents of the Student whose education is at issue<sup>1</sup> appeared and were represented by Lara Hruska and Kaitlin Leifur-Masterson, attorneys at law. The Issaquah School District (District) was represented by Carlos Chavez, attorney at law. Also present for the District was Sharine Carver, Executive Director of Special Services.

**STATEMENT OF THE CASE**

**Procedural History**

The Parents filed a due process hearing request (Complaint) on April 8, 2025. The matter was assigned to ALJ David LeMaster. Judge LeMaster held a prehearing conference on May 15, 2025, and set the due process hearing for August 4 - 7, 2025. The hearing was held as scheduled.

**Due Date for Written Decision**

The written decision in this case is due on November 30, 2025.

**EVIDENCE RELIED UPON**

**Exhibits Admitted:**

District's Exhibits: D1 - D46 & D9-a<sup>2</sup>

Parents' Exhibits: P1 - P32

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<sup>1</sup> To ensure confidentiality, names of parents and students are not used.

<sup>2</sup> Exhibit D9-a was admitted by agreement of the parties on September 4, 2025.

**Witnesses Heard:**

Student's Mother (Ms. Parent)

Student's Father (Mr. Parent)

Kathryn Coffin – Principal at Beaver Lake Middle School

Lisa Chamberlain – District Special Education Teacher

Melinda Mechler – District School Psychologist

Tammy Unruh – District Special Services Director for Secondary Schools

David Breiger, Ph.D. – Psychologist

Kenneth Sylvester – District General Education Teacher

Katharine Chrisman – District General Education Teacher

Shayna Raphael – Educational Behavior Consultant

Andrew Featherston – District General Education Teacher

Madeleine “Laney” Goldsmith – District Speech Language Pathologist

Derek Heinz – Principal at Brightmont Academy

Student

**ISSUES**

- 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 offer an Individualized Education Program (IEP) to the Student in and after October 2023 that included educational placement in the Student's least restrictive environment.
  - ii. Failing to provide adequate service minutes as recommended in the June 2023 Independent Educational Evaluation (IEE) in the IEPs dated November 13, 2023, and November 4, 2024.
  - iii. Refusing to conduct a Functional Behavioral Assessment (FBA) responsive to the March 2025 request.
- b. And, whether the Parents are entitled to their requested remedies:
  - i. Declaratory relief finding that the District violated the IDEA.

- ii. Declaratory relief finding that the District denied the Student FAPE.
- iii. Compensatory special education and related services for the Student to allow him to obtain the educational benefit that he would have received but for the District's violations of the IDEA and denial of FAPE consistent with 20 U.S.C. sec. 1415 (i)(2)(c)(iii).
- iv. Reimbursement for the private services Parents have unilaterally obtained for the Student in the absence of an appropriate IEP.
- v. Prospective placement reasonably calculated to facilitate meaningful educational progress.
- vi. Other equitable remedies, as appropriate.

## FINDINGS OF FACT

### **Background**

1. The Student is currently [REDACTED] At the time of the hearing, he was a rising ninth grader. D31, p5.<sup>3</sup>
2. The Student was initially found to be eligible for special education services while attending school in Texas. The family moved to the District during the 2017-18 school year, when the Student was in the first grade. He has continued to be eligible for special education services and served by an Individualized Education Program (IEP), under the category of autism, while attending school in the District. D28, pp6-7 & 59; TR47.<sup>4</sup>
3. Ms. Parent homeschooled the Student during his fifth-grade year (2021-22 school year) at Cascade Elementary School (Cascade) due to the COVID pandemic.<sup>5</sup> P1, pp4 & 26; TR85. Due to the Student's being homeschooled and per the Parents' request, the District did not provide specially designed instruction (SDI) or monitor the Student's progress on his IEP goals that year. P1, pp7, 10, 13, 17, 20, 23 & 26.

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<sup>3</sup> Exhibits are cited by party ("P" for Parents, "D" for District), exhibit number, and page number, e.g. D31, p5 is a citation to District exhibit 31 at page 5.

<sup>4</sup> The hearing transcript is cited as "TR" with references to the page of the cited testimony. For example, a citation to "TR47" is to the testimony at page 47 of the transcript.

<sup>5</sup> Ms. Parent is not a certificated teacher and does not have any prior teaching experience. TR46-47.

4. On February 2, 2022, the Cascade IEP team met and conducted an annual IEP review. P1, pp1-2. The team decided to continue the goals from the 2021 IEP as written until the Student returned to school. P1, p2.

5. While Ms. Parent was working with the Student one-on-one during the pandemic, the Parents noticed that the Student was showing progress with his academics, particularly in math. This was encouraging to them because the Student had received low scores on prior cognitive evaluations and the Parents feared he may be intellectually impaired. TR154-156.

### **2022-23 School Year (Sixth Grade)**

6. The Student returned to in-person learning at Beaver Lake Middle School (Beaver Lake) for his sixth-grade year. D44; TR50.

7. The Beaver Lake IEP team met on January 26, 2023, to conduct an annual review of the Student's IEP. P5, p4. The team determined that the Student should continue SDI for math in a co-taught setting and that it would consider changing the delivery of SDI in reading and writing from the current LRC<sup>6</sup> setting to a co-taught English Language Arts (ELA) setting. The team recommended adding accommodations to allow for verbal assessments and the modification of assessments for length and complexity to fewer standards, to meet the Student's skill levels. D3, p13.

8. On March 1, 2023, the Parents informed the District that they disagreed with the Student's most recent special education evaluation<sup>7</sup> and requested an Independent Educational Evaluation (IEE). The Parents shared their belief that the Student demonstrated a deeper understanding and ability during the pandemic than he had previously demonstrated at school and wanted an IEE to gain a better understanding of the Student's strengths and potential areas for growth. That same day, the District authorized the Parents to obtain an IEE at the District's expense. P3.

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<sup>6</sup> LRC stands for Learning Resource Center. The acronym is also used generally to describe a special education setting. For instance, "resource," "LRC," and "special education" ELA class, all have the same meaning. TR399 & 461. Students can receive SDI in a special education setting, on a "push-in" basis, or in a co-taught classroom setting. A general education teacher and a special education teacher are always present in a co-taught classroom, whereas a special education teacher "pushes in" to a general education class to deliver SDI as needed. TR280-281.

<sup>7</sup> The evaluation was not submitted as an exhibit and is not in the record.

9. The Student completed the sixth-grade iReady<sup>8</sup> Math Diagnostic in February 2023 and the iReady Reading Comprehension Diagnostic in May 2023. His overall scores on both assessments placed him at Grade Level 5. D5, p14; D28, pp8-9.

**June 7, 2023 IEE by Philip Dunbar-Mayer**

10. Philip Dunbar-Mayer, Psy.D.<sup>9</sup> examined the Student on May 26, 2023, and June 7, 2023. He completed his IEE report on June 7, 2023 (2023 IEE). P4, pp1-2.

11. Dr. Dunbar-Mayer based the impressions in his report on a records review, a review of the Student's medical/developmental history, parent/client interview, clinical/behavioral observation and formal testing. P4, p1. He did not identify which records he reviewed, set forth information obtained from the parent/client interview, or provide any medical or developmental background concerning the Student in his report. P1; TR493-494.

12. Dr. Dunbar-Mayer's report indicates that he administered the following tests: Wechsler Intelligence Scale for Children – 5<sup>th</sup> Edition (WISC-V); Wechsler Individual Achievement Test – 4<sup>th</sup> Edition (WIAT-4); Comprehensive Test of Phonological Processing – 2<sup>nd</sup> Edition (CTOPP-2) - Rapid Symbolic Naming subtests; Beery-Buktenica Developmental Test of Visual-Motor Integration – 6<sup>th</sup> Edition (VMI) – Visual Perception & Motor Coordination subtests; Developmental Neuropsychological Assessment, 2<sup>nd</sup> edition (NEPSY-II) – Comprehension of Instructions, Affect Recognition, Theory of Mind, & selected subtests; Revised Children's Manifest Anxiety Scale – 2<sup>nd</sup> Edition (RCMAS-2). The report also noted that the following questionnaires were completed: Behavior Assessment Scale for Children – 3<sup>rd</sup> Edition (BASC-3, Parent Report and Teacher Reports); Social Responsiveness Scale (SRS); Autism Spectrum Rating Scales (ASRS); Behavior Rating Inventory of Executive Function (BRIEF) P4, p1. Dr. Dunbar-Mayer also administered the Leiter-3 to measure the Student's cognitive ability.<sup>10</sup>

13. The Student's score on the Leiter-3 placed him in the 91<sup>st</sup> percentile. Dr. Dunbar-Mayer's report indicated low scores on the Comprehension of Instructions

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<sup>8</sup> The iReady is a private online assessment tool used by the District to measure student progress. It is an adaptive test, which means that the difficulty of the questions changes in response to the student's performance. TR288-290.

<sup>9</sup> The signature block on Dr. Dunbar-Mayer's report identifies him as a Pediatric Neuropsychologist and Licensed Clinical Psychologist. P4, p14. Dr. Dunbar-Mayer did not testify at the hearing and his *curriculum vitae* was not submitted as an exhibit.

<sup>10</sup> Dr. Dunbar-Mayer's report incorrectly indicated that the District had administered the Leiter-3 in January 2018. TR416-17. Dr. Dunbar-Mayer did not include descriptions of the tests he administered or an explanation of the scores. TR495-496.

(<1%) and Theory of Mind subtests (<2%) of the NEPSY-II. The Student's scores on the Coding and Symbol Search subtests on the Processing Speed Index of the WISC-V placed him in the 5<sup>th</sup> and 9<sup>th</sup> percentile, respectively. P4, pp15-16.

14. Dr. Dunbar-Mayer observed that the Student had a gentle disposition but that he struggled with reciprocal conversations and pragmatic (social) communication skills. He also indicated that the Student's attention level fluctuated from being independently focused to displaying difficulty with listening to directions and requiring prompts to redirect his attention. Dr. Dunbar-Mayer noted that the Student was highly responsive to redirection and benefited from additional structure while working, in the form of modeling, visual cues, and repetition of directions when appropriate. He commented that the Student displayed decreased fine motor strength, which required breaking up most writing tasks, but that the Student was able to complete all the assessments. P4, p2.

15. Dr. Dunbar-Mayer's report listed the following diagnoses: Autism Spectrum Disorder; Attention Deficit/Hyperactivity Disorder, Inattentive Type; Generalized Anxiety Disorder; Language Based Learning Disability; Specific Learning Disorder in Mathematics; and Developmental Coordination Disorder (Fine-Motor). P4, p2. Dr. Dunbar-Mayer's report did not identify the criteria he used or explain how he made these diagnoses. TR493-494.

16. Dr. Dunbar-Mayer's recommendations included the following:

- Written Expression: Increase to 240 minutes per week, provided on a 1:1 basis by a special education teacher or learning specialist with expertise in remediating writing challenges.
- Reading Rate/Fluency and Comprehension: Instruction "via a phonologically based curriculum" at a rate of 4 x 45 (180) minutes per week provided by special education teacher or learning specialist. In addition, instructional support in reading fluency at a rate of 5 x 15 (75) minutes per week.
- Math Reasoning/Calculation: Continuation of this instruction at 240 minutes per week, provided only by a certified special education teacher/learning specialist.
- Organizational and Study Skills: Direct instruction targeting his ability to manage his time and plan an approach to multistep tasks, such as strategies to break down information and assignments into manageable chunks, planning and prioritizing work, managing time, organizing materials, and developing study strategies.

- Occupational Therapy and Assistive Technology: Continued receipt of occupational therapy for visual-motor integration and fine-motor coordination and instruction on keyboarding skills and how to use assistive technology (1 x 30 minutes per week).
- Pragmatic (Social) Language: Continuation of IEP goals emphasizing language-based processing and communication skills across all aspects of the day.

P4, pp4-7.

17. Dr. Dunbar-Mayer only recommended the delivery of instruction on a 1:1 basis for written expression. P4, pp4-7.

18. Dr. Dunbar-Mayer recommended the following accommodations:

- 50% more time on tests
- Distraction free environment for taking exams (with additional staff support for questions to keep him on track)
- Preferential seating/purposeful pairing in class
- Assistance with learning coping strategies at school (self-soothing techniques, gesturing for assistance, having a keyword to tell the teacher)
- Positive direct feedback and redirection
- Allow dictation of assignments and tests to a scribe
- Increase opportunities for giving oral answers to quizzes and tests
- Check-ins after instructions for assignments to ensure understanding and to assist with task initiation and follow-through
- Help with modeling, facilitating, and guiding appropriate interactions with classmates
- Prompting by teachers to have the Student check in with the teacher after class once a week to make sure Student understands how to complete assignments, answer questions, and remind him of important due dates
- Use of calculator, number line, graph paper, graphic organizer, and/or multiplication chart during exams/assignments

- Use of visual aid/representation of math problems
- Access to a note-taker's notes or teacher notes/outline
- Use of assistive technologies for writing assignments
- Weekly parent/teacher consultation with primary designated teacher to help the Student stay on track
- Reduced writing demands regarding daily assignments, with a particular focus on quality rather than quantity.

P4, pp7-8.

19. Dr. Dunbar-Mayer did not recommend a Functional Behavioral Evaluation (FBA) or Behavioral Intervention Plan (BIP) for the Student. P4.

20. The Parents provided a copy of the IEE to the District on June 9, 2023. D3, p6.

21. Following the receipt of the IEE, the District and the Parents discussed next steps, which included scheduling an IEP meeting at the beginning of the following school year and conducting a reevaluation of the Student. D3, pp2-4.

22. On June 15, 2023, the District sent the Parents a Prior Written Notice (PWN) proposing to reevaluate the Student, together with a Consent for Reevaluation form. The PWN explained that the team needed to consider the recently completed IEE and incorporate the new information into a school evaluation. D5, pp2-3.

23. An IEP meeting was ultimately scheduled for August 25, 2023, to discuss the IEE and determine what changes could be made to the Student's class schedule and IEP before the start of the school year, which was August 29, 2023. D3, p2-6; D45, p1. The Parents provided a signed Consent for Reevaluation form to the District on August 31, 2023, allowing the District to begin the reevaluation process. D3, p2; D5, pp65-66.

24. The Student's scores on the sixth-grade Smarter Balanced Assessment Consortium (SBAC) taken in June 2023 placed him at Level 1 for Language Arts, and Level 2 for Math. The SBAC is an online assessment tool aligned to the State's Common Core State Standards. The assessments provide an academic checkup and are designed to give teachers and parents better information to help students succeed. A student scoring at level 4 has exceeded the achievement standard, at level 3 has

met the achievement standard, at level 2 has nearly met the achievement standard, and at level 1 has not met the achievement standard. D5, p6; D28, p8.

### **2023-24 School Year (Seventh Grade)**

25. On August 23, 2023, Lisa Chamberlain<sup>11</sup> emailed the Parents in preparation for the upcoming IEP meeting on August 25, 2023, informing them that the team would use the existing January 26, 2023, IEP as a starting point for discussions. She also informed the Parents that they would be working with Jessica Tsutsumi, the school psychologist, on the reevaluation process, after which the team would hold another IEP meeting and revise the IEP, as needed, based on the results of that reevaluation. D3, p2.

26. Ms. Chamberlain has known the Student since he began at Beaver Lake in the sixth grade. She was the Student's special education teacher in the sixth, seventh and eighth grades. Ms. Chamberlain was the Student's seventh-grade math teacher in his co-taught math class. TR335. She was also one of the Student's teachers in his Academic Lab class in the eighth grade. TR362-363.

27. Ms. Chamberlain also served as the Student's special education case manager in seventh and eighth grade. As his case manager, Ms. Chamberlain was responsible for managing the Student's IEP. This entailed working with teachers to implement the IEP, collecting progress report data, leading IEP meetings, and generating the IEP. TR331-333. She also served as a resource if teachers needed to consult with her about the Student's IEP. TR376.

### **The Amended January 26, 2023 IEP**

28. The IEP team met on August 25, 2023, and September 21, 2023, to consider the IEE, discuss ways to balance the recommendations in the IEE with the Student's class schedule, and decide on changes to the Student's IEP that could be implemented immediately while the reevaluation was in progress. D3, p58-60; TR337-338. The IEP team reviewed and discussed all the recommendations made by Dr. Dunbar-Mayer in his report. TR285.

29. At the time of the August 25, 2025, meeting, the Student was scheduled to receive SDI in reading and written language in his general education co-taught ELA class when the school year began. He was also enrolled in Health class as an elective. The team agreed to change the Student's schedule so he could take Art instead of

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<sup>11</sup> Ms. Chamberlain is a certificated teacher with an endorsement in special education and math. She holds an undergraduate degree in biochemistry and a master's degree in teaching. TR329-30.

Health in Trimester 1. For Trimester 2, the team agreed to provide the Student with more intensive support in reading and written language by adding a special education ELA class in place of an elective. This would give the Student additional SDI in both reading and written language in a special education setting on top of the minutes he was already receiving in each of these areas in his general educational ELA class. For Trimester 3, the Student would return to receiving his SDI in reading and written language in only his general education ELA class. This would allow the Student to take Health class as an elective, as requested by the Parents. D3, p58; TR337-338, 342-343; & 345-347.

30. At the follow-up meeting on September 21, 2023, the Parents withdrew their request for additional services in reading fluency (outside of what the Student was receiving in his co-taught ELA class) so that the Student could remain in his Trimester 1 Art class. D3, p62. The IEP team also agreed to add a second social/emotional goal to the Student's IEP, which had been recommended as an accommodation in the IEE. D3, p62; P4, p7.

31. The PWNs relating to these IEP team meetings do not reflect any objections by the Parents and do not identify any other items that were considered and rejected. D1, pp2-3; D3, pp60-61.

32. On September 21, 2023, the team prepared an amended IEP, which incorporated the changes to the Student's services matrices, accommodations and IEP goals, as agreed at the August and September 2023 IEP meetings. (Amended January 2023 IEP). D3. These changes were implemented on September 1, 2023, and September 26, 2023, respectively. D1, p2 & D3, p62.

33. The Amended January 2023 IEP added the following social/emotional goal, which had been recommended as an accommodation by Dr. Dunbar-Mayer:

When given a situation that the Student finds overwhelming, he will either continue with the task, or use a coping strategy (for example: self-soothing techniques, gesturing for assistance, using a keyword to tell the teacher that he is feeling overwhelmed, etc.) to retain or regain emotional regulation and return to the task in a timely manner, improving emotional regulation from continuing or returning to the task in a timely manner in 0% of opportunities (not yet measured) to continuing or returning to the task in a timely manner in 80% of opportunities as measured by teacher collected data over three data days.

D3, p40; P4, p7.

34. The updated SDI service matrix for Trimester 1 (8/30/2023 to 11/28/2023) provided:

Educational Services (Weekly Minutes: 1725)

SDI	Provider	Minutes	Frequency	Location
Reading <sup>12</sup> Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In General Education
Math Monitored By: Sp Ed Teacher	Sp Ed Teacher	240	Weekly	In General Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	86
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D3, p50.

35. The IEP also provided for 240 minutes per month of related services from a Speech Language Pathologist (SLP) to support the Student's social/emotional and written language goals, delivered as follows:

Social/Emotional (120 minutes/month): The Student will receive weekly related SLP services during his Learning Strategies class to support his pragmatic language skills and progress on his Social/Emotional IEP goal.

Written Language (120 minutes/month): The Student will receive weekly related SLP services during his Language Arts class to support growth in his verbal expression and progress on his Writing Goal.

D3, pp50-51.

<sup>12</sup> SDI in reading includes both reading fluency and reading comprehension. TR346.

36. The updated SDI service matrix for Trimester 2 (11/29/2023 to 1/25/2024) provided:

Educational Services (Weekly Minutes: 1725)

SDI	Provider	Minutes	Frequency	Location
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In General Education
Math Monitored By: Sp Ed Teacher	Sp Ed Teacher	240	Weekly	In General Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	72
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D3, pp53-54.

37. The related SLP services remained the same. D3, pp53-54.

38. The Amended January 2023 IEP provided the following updated accommodations:

- Preferential Seating (to improve focus and engagement)
- Utilize pro-social peer models
- Break lessons or directions into smaller units
- Provide visual aids (rubrics, checklists, graphic organizers & visual models)

- Regular check-in with for understanding of directions & academic content
- Give additional processing time
- Give single step instructions
- Support student to sustain attention, cue verbally, non-verbally, or with gentle reminders (prompting)
- Use positive feedback and redirection when needed
- Demonstrate and model tasks
- Provide a copy of teacher notes and study guides with answers (on teacher's website is OK) and allow time to review
- Use of a calculator, number line, graph paper, graphic organizer, and/or multiplication table as needed for math or science assignments/assessments
- Access to word banks on assignments and assessments
- Test individually, in a small group, or a separate location
- Extended Time: 50% additional time for assignments and assessments
- Allow student to test orally or type his answers when available to better determine his understanding of material
- Use computers for writing assignments and to track assignments, and use software to support student learning
- Allow opportunity to show learning through multiple modalities
- Provide student special schedules ahead of time, alert when there will be changes in his schedule

D3, p45.

39. The IEP team determined that the Student did not require a BIP: "Although the Student has IEP goals in behavior, the IEP team has determined that this is not a needed service or support at this time." D3, p44.

40. The Student took the iReady Math and Reading Comprehension Assessments in the fall of 2023. His overall scores placed him at a sixth-grade level in both areas. D5, pp14-15 & 17.

### **October 19, 2023 Reevaluation**

41. The District completed its reevaluation on October 19, 2023 (October 2023 Reevaluation). The Student was evaluated in the following areas: Reading, Cognitive, Behavioral, Fine Motor, Math, Health & Development, Speech/Language, Written Language and Social Emotional. D5, p8. School psychologist Jessica Tsutsumi served as the evaluation case manager. D5, p5.

42. The reevaluation incorporated the data from the 2023 IEE, which was attached in its entirety to the report. D5, pp5 & 49. D5.

43. Ms. Tsutsumi included input from the Student's general education teachers. The Student's ELA teacher reported high classroom engagement but challenges with focus, understanding content, grasping metaphor, and understanding instructions. The Student's art teacher described him as very engaged in the classroom, both independently and during small group activities. She noted that she rarely had to help the Student get started on projects following her demonstrations and that, aside from needing some redirection, the Student was almost always on task. The Student's social studies teacher reported that the Student responded promptly to feedback and redirection and that, with regular check-ins, his engagement was sufficient for learning. She did not report any specific concerns. D5, pp7-8.

44. Ms. Tsutsumi also incorporated the Parents' input into the report, which included their concerns that the Student's delays in communication and executive functioning skills made it difficult to remember verbal instructions and lectures. They also reported that simple written directions and being able to access written lectures and assignments online were helpful to the Student and that with proper scaffolding, the Student could follow instructions and lectures. D5, p8.

### **Cognitive Evaluation**

45. Ms. Tsutsumi reviewed the CTOPP-2, the Leiter International Performance Scale (LEITER-3), and the WISC-V test results from the IEE, together with the Student's past assessments related to cognitive functioning, going back to 2018. The CTOPP-2 assesses phonological awareness, phonological memory, and rapid naming. The LEITER-3 is an individually administer test designed to assess cognitive functions. The battery includes measures of nonverbal intelligence in fluid reasoning and visualization, as well as appraisals of memory, attention, and cognitive interference.

The WISC-V is an individually administered, standardized measure of cognitive ability. D5, pp9-10.

46. The Student's score on the Rapid Symbolic Naming Index of the CTOPP-2 placed him under the first percentile. His Processing Speed Index score on the WISC-V was "very low." The Student's non-verbal IQ of 120 on the LEITER-3 placed him in the 91<sup>st</sup> percentile. D5, pp9-10.

### **Reading, Math, and Written Language Evaluations**

47. Ms. Tsutsumi reviewed the WIAT-4 assessment results from the 2023 IEE. She also reviewed the Student's test results from the KTEA-3, which she had administered to the Student in January 2023. The WIAT-4 is a comprehensive test used to assess student achievement. It consists of 16 subtests used to evaluate listening, speaking, reading, writing, and math skills. The KTEA-3 is a norm-referenced achievement test designed to measure a student's performance in the areas of reading, writing, and math. Both assessments are individually administered. D5, pp12 -13. Ms. Tsutsumi also reviewed the Student's most recent progress data on his IEP goals, which were collected in the fall of 2023. D5, pp13-19.

#### *Reading*

48. Ms. Tsutsumi noted that the results of the WIAT-4 and the KTEA-3 showed that the Student was performing below grade level expectations in reading. The Student's special education teacher reported in September 2024 that the Student's reading skills were steadily growing and that, with prompting, he followed directions and completed assignments. D5, pp14-15. Based on test results, the Student's most recent IEP progress data collected in September 2024, and the Student's October 2023 iReady Reading Comprehension assessment results placing him at the sixth-grade reading level, Ms. Tsutsumi recommended that specially designed instruction continue to be provided to the Student in reading. D5, pp14-15.

#### *Math*

49. The Student's WIAT-4 and KTEA-3 test results showed that the Student was performing below grade level expectations in math. After noting the Student's recent IEP progress data and his most recent iReady math assessment (from September 2023) scores placing him at a sixth-grade level in math, Ms. Tsutsumi recommended that the Student continue to receive SDI in math. D5, p17.

## *Written Language*

50. The results of the WIAT-4 and the KTEA-3 also showed that the Student was performing below grade level expectations in writing. Ms. Tsutsumi recommended that the Student continue to receive SDI in writing as well. D5, p19.

## **Behavior Evaluation**

51. Ms. Tsutsumi reviewed the BRIEF rating scale completed by the Parents and the test results from the Delis-Kaplan Executive Function System (D-KEFS), which were obtained as part of the IEE. The BRIEF assesses everyday behaviors associated with executive functions in home and school environments. The D-KEFS is a neuropsychological test used to measure a variety of verbal and nonverbal executive functions. Ms. Tsutsumi also reviewed the BRIEF-2 rating forms that had been completed by Ms. Parent and the Student's teachers to assess the Student's executive functioning skills as part of the District's January 26, 2023, reevaluation. Ms. Tsutsumi also reviewed the Student's progress on his IEP goals. D5, pp20-22.

52. Ms. Tsutsumi concluded that Ms. Parent's rating scales from the BRIEF and the D-KEFS test results from the 2023 IEE showed significant concerns with the Student's executive functioning skills. She noted that this was consistent with the concerns raised by the Ms. Parent and the Student's teachers in the January 2023 reevaluation. Ms. Tsutsumi noted that, in the fall of 2023, the Student's teachers were reporting that he required prompting to complete tasks. Ms. Tsutsumi recommended continued SDI for behavior/executive functioning. D5, p22.

## **Social/Emotional Evaluation**

53. Ms. Tsutsumi reviewed the BASC-3 ratings from the 2023 IEE completed by Ms. Parent and the Student's teachers. The BASC-3 uses parent, teacher, and student ratings to assess a child's overall social, emotional, and behavioral functioning. D5, pp22-23. Ms. Tsutsumi also considered the SSIS SEL<sup>13</sup> parent and teacher rating scales, which had been completed as part of the Student's January 26, 2023, reevaluation. D5, p25. In addition, she reviewed progress data on the Student's social emotional goals. D5, pp26-27.

54. The BASC-3 rating scales indicated concerns with the Student's overall social/emotional skills. Ms. Tsutsumi observed that, while externalization did not appear to be a significant problem, concerns were noted with internalizing behaviors, attention/learning problems, functional communication, and showing atypical

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<sup>13</sup> Social Skills Improvement System Social Emotional Learning Edition. See D28, p32.

behaviors at home and at school. The rating scales from the earlier SSIS SEL also indicated concerns with the Student's overall social/emotional skills. D5, pp26-27.

55. Ms. Tsutsumi concluded that current data relating to the Student's social/emotional IEP goal indicated a continuing need for SDI in social/emotional learning. D5, pp27-28.

### **Communication Evaluation**

56. SLP Madeleine (Laney) Goldsmith<sup>14</sup> reviewed the communication evaluation that her predecessor, Karen Fischer, completed as part of the Student's January 2023 reevaluation. D5, p28. Ms. Fischer had administered the Oral and Written Language Scales-II (OWLS-II) and the Social Language Development Test-Adolescent (SLDT-A). The OWLS-II is a norm-referenced assessment that measures a student's receptive and expressive language skills. The SLDT-A is a diagnostic test of social language skills for adolescents that focuses on social interpretations and interactions with peers. D5, p30-31 &33.

57. Ms. Goldsmith restated Ms. Fischer's summary and recommendations, which noted challenges with pragmatic language skills, using language to relate and request information, and attending visually in large group settings. D5, pp37-38. Ms. Fischer recommended that the Student receive speech-language services as a related service to support growth in his expressive language skills and his pragmatic language skills. The plan was to design these related services to support progress on the Student's IEP literacy and social goals. D5, p38.

### **Fine Motor Evaluation**

58. Kari Torres, OTR/L administered the Bruiniks-Oseretsky Test of Motor Proficiency-2 (BOT-2) Fine Motor assessment, which is a standardized assessment used to evaluate a child's fine and gross motor skills. D5, p38. Overall, Ms. Torres reported that the Student had average fine motor skills and was doing well completing his schoolwork and in classroom discussions, but that he had challenges with ball skills. D5, p40.

59. Ms. Torres concluded that the Student's test scores, her professional observations and teacher input all demonstrated that there was no longer a need for fine motor support in the school setting. She did not recommend school-based

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<sup>14</sup> Ms. Goldsmith has served as a Speech Language Pathologist for the District for the past four years. She received her speech and hearing sciences degree from the University of Washington and her master's in speech language pathology from Washington State University. She has a Certificate of Clinical Competency. TR674-775.

occupational therapy. D5, p40. Ms. Torres suggested the following accommodations: access to notes ahead of time, access to a computer to type schoolwork, and fill-in-the-blank or scaffolded class notes provided ahead of time. D5, p40.

60. The IEP team met on October 19, 2023, to discuss the results of the reevaluation. The team determined that the Student continued to be eligible for special education services and that he needed SDI in reading, writing, math, social/emotional, and behavior. He also continued to require SLP services as a related service. D5, p45.

61. The team recommended the same list of accommodations that had been included in the Amended January 2023 IEP. D5, pp40-41.

62. On November 7, 2023, Ms. Chamberlain sent a draft IEP to the Parents in advance of the IEP meeting, which was scheduled for November 13, 2023. D8, pp1-2.

### **November 13, 2023 IEP**

63. The IEP team met on November 13, 2023, and agreed to implement the IEP as written beginning November 18, 2023 (November 2023 IEP), replacing the January 2023 Amended IEP. D9-a, p2.

64. Unable to attend the meeting, SLP Laney Goldsmith submitted her input in writing. D9-a, p77. She provided October 2023 updates on the Student's social/emotional and written language goals, which she had been supporting.

65. Written Expression Goal: Ms. Goldsmith reported that the Student continued to participate in a small weekly discussion group during his learning strategies class. The Student received lessons on using organization tools and verbalization/visualization strategies to improve his comprehension and inferencing skills. Ms. Goldsmith observed that the Student demonstrated strengths with his robust vocabulary and ability to persist through tasks. She was impressed by his ability to continue working with minimal verbal reminders when his peers were engaging in distracting behavior. Ms. Goldsmith recommended that the Student receive SLP services as a related service to support growth in his expressive language skills and progress on his written language goal. D9-a, pp23-24.

66. Social/Emotional Goal: Ms. Goldsmith reported that Student continued to engage in weekly lessons focused on prosocial problem solving, self-advocacy, interpreting nonverbal communication, and peer conversational skills. She observed that the Student demonstrated challenges participating in a group independently, but that he would happily join the group with verbal check-ins and direct/explicit instructions. Ms. Goldsmith recommended related SLP services in pragmatic and

expressive language skills designed to support progress on the underpinning skills necessary to meet his social/emotional goal and improve his prosocial peer relationships. D9-a, p46.

67. The team established the following updated IEP goals:

Goal #1 - Reading Fluency: When given a passage at his reading level, the Student will read the passage aloud, improving fluency from 93% accuracy and 104 correct words per minute (cwpm) at the 6<sup>th</sup> grade level, to 95% accuracy and 130 cwpm at the 7<sup>th</sup> grade level, as measured by teacher collected data on three data days. D9-a, p11.

Goal #2 – Reading Comprehension: When given a passage at his reading level, Student will independently read the text and answer comprehension questions, improving reading comprehension skills from 60% accuracy at the 4th grade level to 80% accuracy at the 5th grade level, as measured by teacher collected data on three data days. D9-a, p17.

Goal #3 – Written Expression: When given a prompt and asked to respond in paragraph form, the Student will independently dictate/type/write a five sentence paragraph that includes a topic sentence, supporting details, and a concluding sentence, with correct sentence structure, grammar, and conventions, improving written expression from scoring 14/20 to scoring 16/20 on the attached rubric, as measured by teacher collected data over three data days. D9-a, p24.

Goal #4 – Math Calculation: When given math calculation assessments at his grade level, the Student will calculate the problems, showing all his work and his thinking processes, improving from 75% accuracy on 6th grade level math calculation assessments, to 80% on 7th grade level math calculation assessments, as measured by curriculum-based assessments on three data days across one trimester. D9-a, p30.

Goal #5 – Behavior: When in the general education setting, the Student will begin working and remain on task, improving task initiation and work completion from 50% of the time to 80% of the time, as measured by teacher collected data on three data days. D9-a, p37.

Goal # 6 – Social/Emotional: When given the opportunity to interact with peers in a class setting, the Student will initiate and/or maintain an appropriate conversation, improving expected behavior towards peers from 1 out of 3 opportunities to 2 out of 3 opportunities. D9-a, p46.

Goal #7 – Social/Emotional: When given a situation that the Student finds overwhelming, he will either continue with the task, or use a coping strategy (for example: self-soothing techniques, gesturing for assistance, using a keyword to tell the teacher that he is feeling overwhelmed, etc.) to retain or regain emotional regulation and return to the task in a timely manner, improving emotional regulation from continuing or returning to the task in a timely manner in 90% of opportunities (single data point) to continuing or returning to the task in a timely manner in 80% of opportunities as measured by teacher collected data over three data days. D9-a, p54.

68. The updated SDI service matrix for the remainder of Trimester 1 (11/18/2023 to 11/28/2023) provided:

Educational Services (Weekly Minutes: 1725)

SDI	Provider	Minutes	Frequency	Location
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Math Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher	120	Weekly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	84
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D9-a, pp62.

69. The IEP also provided 240 minutes per month of related services from an SLP to support the Student’s social/emotional and written language goals, delivered as follows:

Social/Emotional (120 minutes/month): The Student will receive weekly related SLP services delivered concurrently with his reading SDI during his Learning Strategies class to support his pragmatic language skills and progress on his Social/Emotional IEP goal.

Written Language (120 minutes/month): The Student will receive weekly related SLP services in a special education setting to support growth in his verbal expression and progress on his Writing Goal.

D9-a, pp62-63.

70. The updated SDI service matrix for Trimester 2 (11/29/2023 to 3/18/2023) provided:

Educational Services (Weekly Minutes: 1725)

SDI	Provider	Minutes	Frequency	Location
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Math Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	70
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D9-a, p65.

71. The related SLP service minutes remained the same. D9-a, pp66.

72. The updated SDI service matrix for Trimester 3 (3/19/2024 to 11/12/2024) provided:

Educational Services (Weekly Minutes: 1725)

SDI	Provider	Minutes	Frequency	Location
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Math Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	100	Weekly	In General Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	120	Weekly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	84
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D9, p1

73. The related SLP service minutes remained the same. D9, p2.

74. The team adopted the accommodations recommended in the October 2023 Reevaluation and added two more:

- Provide text to speech for longer reading assignments where reading comprehension is not being measured (via Immersive Reader in Canvas and/or Edge or other format)
- Allow student to turn in assignments up to 2 days past due date without penalty.

The team deleted the accommodation that allowed the Student access to word banks on assessments. This accommodation remained for assignments. D9-a, p59-60.

75. The IEP team concluded that the Student did not require a BIP: “Although the Student has IEP goals in behavior, the IEP team has determined that this is not a needed service or support at this time.” D9-a, p58.

76. On November 20, 2023, Ms. Chamberlain provided the Student's teachers with a summary of the Student's new November 13, 2023, IEP and updated accommodations. D10, p1.

77. Kathryn Coffin<sup>15</sup> has served as the Principal at Beaver Lake for the past five years. TR248. She met the Student in the first month of his six-grade year and was on his IEP team for all three of his years at Beaver Lake. TR252. As part of her daily routine, Ms. Coffin spends time in the lunchroom and has had the opportunity to observe the Student's social interactions over the years in that setting. TR251.

78. Beginning in the sixth grade, Ms. Coffin and the IEP team learned how important it was that the Student be given processing time to articulate a response. They realized that his quiet demeanor often indicated that he was thinking about what he was going to say and when he was interrupted by a repeated question, this reset the time he needed to give an answer. TR251 & 301-302. The Student's slower processing speed also hindered his ability to show what he knew. TR302. Addressing these issues with accommodations became part of the team's strategy when supporting the Student. TR286-287.

79. In Ms. Coffin's opinion, the frequent check-ins and prompting were important accommodations for the Student to address his quiet demeanor and to help him stay on task in a classroom setting. The teachers also tried to seat the Student next to caring peers who would be patient when the Student needed extra time to respond. TR255, 257 & 310.

80. Ms. Goldsmith provided the SLP related services to the Student in the seventh and eighth grades. TR676. In the seventh grade, she worked with the Student on his social/emotional goal through his Learning Strategies class. This work involved co-teaching group lessons on emotional regulation and communication to the whole class, which consisted of approximately 10 students. The focus was on pragmatic language<sup>16</sup> and group collaboration. TR679 & 682. Ms. Goldsmith also worked with the Student to support his written expression goal. This involved working with the Student in both one-on-one and small group settings. She also collaborated with the Student's general education teachers and special education teachers across the school day to be sure they had the tools they needed for the Student to be successful in his ELA class. TR679-680.

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<sup>15</sup> Ms. Coffin taught math and science for 11 years prior to moving into an administrative role. She has a master's degree in teacher and an administrative certificate in leadership. TR248.

<sup>16</sup> Pragmatic language relates to how someone understands the rules of social dynamics using language. TR686.

81. Ms. Parent continued tutoring to the Student during his seventh-grade year. She estimated that she spent approximately 4 to 4 ½ hours each night during the week and a total 7-8 hours on the weekends working with the Student. She would start when the Student got home from school and continue until 9:00 p.m., taking a break for dinner. She would sometimes “sneak in” more study time during the hour the Student had between the time he woke up and had to catch the bus to school. TR58 & 83-85. This tutoring regimen was difficult for the Student, who would sometimes cry when he had to study until 9:00 p.m. TR68.

82. Ms. Parent described the tutoring as “reteaching” and “restudying.” This involved reviewing information on Canvas,<sup>17</sup> going over notes obtained from the Student’s teachers, and studying the Student’s textbooks. If Ms. Parent was unable to discern from Canvas or questioning of the Student what he was supposed to be working on, she would make her best guess and teach him “what I think he is supposed to be learning at school.” TR83-84 & 103.

83. The IEP team conferred with the Parents about the amount of time Ms. Parent was spending after school tutoring the Student. The team encouraged her to cut back on this extra after-school work to reduce the stress on the Student and give the school a better opportunity to see how he performed at school without the extra help. TR312-313. The Parents resisted the school’s recommendation. TR319-320.

### **IEP Goal Progress**

84. Ms. Chamberlain gathered data on the Student’s IEP goals once a month and provided a progress report to the Parents every trimester. TR334-335; 357. The Student’s IEP goal progress over the course of his seventh-grade year, as documented in the goal progress reports, is set forth below.

### **Reading Fluency**

85. Reading Fluency Goal: Improve fluency from 93% accuracy and 104 correct words per minute (cwpm) at the 6<sup>th</sup> grade level, to 95% accuracy and 130 cwpm at the 7<sup>th</sup> grade level.

86. The Student’s progress score improved from reading a 6<sup>th</sup>-grade passage with 110 cwpm and 95% accuracy in November 2023 to reading a 7<sup>th</sup>-grade passage with 91 cwpm and 94% accuracy by June 2024. D21, p2. Ms. Chen noted the Student’s

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<sup>17</sup> Canvas is an online system that allows students to access class materials, submit homework assignments, and communicate with teachers. TR59, 559, 571.

accuracy with 7<sup>th</sup>-Grade texts was improving, but his cwpm was still below his goal. D21, p2. (Skill Emerging)

### **Reading Comprehension**

87. Reading Comprehension Goal: Independently read a passage and answer comprehension questions, improving reading comprehension skills from 60% accuracy at the 4<sup>th</sup> grade level, to 80% accuracy at the 5<sup>th</sup> grade level.

88. In November 2023, the Student read a 4<sup>th</sup>-grade passage with 80% accuracy. D21, pp2-3.

89. In February 2024, the Student achieved a 5<sup>th</sup>-grade information text score of 100%. The Student's special education teacher noted the Student's January 2024 iReady Reading Diagnostic results showed that the Student's literature comprehension had improved by one grade level to Grade 6. She also noted that the Student's comprehension of informational text dropped to the 4<sup>th</sup>-grade level but reported that the Student's performance in class demonstrated the ability to comprehend 5<sup>th</sup>-grade informational text effectively. D21, pp2-3.

90. By the spring of 2024, the Student showed proficiency with 5<sup>th</sup> and 6<sup>th</sup>-grade information texts, having achieved a progress score of 100% on a 6<sup>th</sup>-grade information text. The plan was to focus the Student's work on 6<sup>th</sup> and 7<sup>th</sup> grade level texts. Ms. Chamberlain reported sufficient progress on this goal. D21, pp2-3.

### **Written Expression**

91. Written Expression Goal: When given a prompt and asked to respond in paragraph form, the Student will independently dictate/type/write a five-sentence paragraph that includes a topic sentence, supporting details, and a concluding sentence, with correct sentence structure, grammar, and conventions, improving written expression from scoring 14/20 to scoring 16/20 on the attached rubric. D21, pp3-4.

92. In November 2023, the Student scored 14/20 on a 100-word memoir but needed substantial scaffolding to achieve this score. The Student also needed consistent support generating writing ideas. D21, pp3-4.

93. In December 2023, the Student wrote a paragraph with improved independence and minimal prompting and earned a score of 15/20. In January 2024, the Student obtained a score of 14/20 on a "thoughtful paragraph outlining various reasons behind his choice of packing items" for a trip.

94. In February 2024, the Student's work in his general education ELA class on a photo essay project resulted in a rubric score of 15/20. His special education teacher shared that with extensive one-on-one support and clear step-by-step instructions provided over several weeks, the Student diligently conducted research using a variety of sources to gather information for the project and created a PowerPoint photo essay. While the Student still required reminders for writing structure in his Learning Resources ELA class, he was able to independently produce detailed responses to justify his reasoning when presented with a prompt. D21, pp3-4.

95. In the spring of 2024: Student achieved progress scores of 14/16, 15/16, 16/16, and 15/16 on a 4-paragraph book review. The Student used complete sentences, and correct spelling and grammar. The paragraphs were each structured well and, as a whole, the book review was well-organized, including the introduction and conclusion. Ms. Chamberlain concluded that the Student could organize his ideas and use appropriate writing conventions. She reported sufficient progress on this goal. D21, pp3-4.

96. SLP Laney Goldsmith provided input on the Student's written expression goal. In March 2023, she noted that the Student showed improved reasoning and inferencing skills. The Student had also shown improvement in his ability to summarize written content with the use of a graphic organizer and had demonstrated growth in his vocabulary and understanding of figurative language during his small literacy group. D21, pp3-4.

97. In June 2023, Ms. Goldsmith reported that the Student was continuing to expand his writing and reading comprehension. She remarked that the Student was creative and had great ideas although he often needed support in organizing and expanding on them with adequate detail. She reported that the Student demonstrated good vocabulary skills and had improved in his ability to use context clue strategies independently. D21, pp3-4.

## **Math**

98. Math Goal: When given math calculation assessments, the Student will calculate the problems, showing all his work and his thinking processes, improving from 75% accuracy on 6th grade level math calculation assessments, to 80% on 7th grade level math calculation assessments, as measured by curriculum-based assessments. D21, pp5-6.

99. In the fall of 2023, the Student scored 80% on his 7<sup>th</sup> Grade assessments. The Student did better when problems did not involve a reading comprehension

component (story problems). D21, pp5-6. The Student's progress score increased to 84% the winter of 2023 and decreased to 77% in the spring. The Student's special education teacher concluded that the Student was making great progress. She observed that when questions involved math symbols only, the Student was usually able to answer correctly with grade-level skills, but that he sometimes struggled to determine what was being asked when questions involved translating between words and symbols. She indicated that the Student was building skills to independently determine steps to take in these situations. Ms. Chamberlain reported sufficient progress on this goal. D21, pp5-6.

100. The Student's overall score on both the January 2024 and June 2024 iReady Math Diagnostic placed him at the 7<sup>th</sup>-grade level. D21, pp5-6.

### **Behavior**

101. Behavior Goal: When in the general education setting, the Student will begin working and remain on task, improving task initiation and work completion from 50% of the time to 80% of the time. D21, pp6-7.

102. In the winter of 2023, the Student's progress score on this goal was 65% on task. By the spring of 2024, the Students progress score improved to 86% time on task and 89% task completion. Ms. Chamberlain reported sufficient progress on this goal. D21, pp6-7.

103. The Student's math teacher noted that, occasionally, the time it took to prompt the Student led to the Student needing to skip a portion of the note taking and other tasks to catch up to the class. However, the accommodation allowing a copy of the teacher notes online allows the Student to recover this information. The Student's health teacher commented that his class participation and his focus had both improved since the prior year. D21, pp6-7.

104. The Student's special education teacher concluded that he was making great progress with his on-task behavior, commenting that when he was off-task, he often returned to task without prompting. When prompting was necessary, the Student was responsive. It was noted that the Student responded well when the prompt was simply to ask him what he should be doing (versus repeating the direction). Ms. Chamberlain reported sufficient progress on this goal. D21, pp6-7.

### **Social/Emotional Goal (Peer Interaction)**

105. Social/Emotional Goal (Peer Interaction): When given the opportunity to interact with peers in a class setting, the Student will initiate and/or maintain an

appropriate conversation, improving expected behavior toward peers from 1 out of 3 opportunities to 2 out of 3 opportunities. D21, pp7-8.

106. In the winter of 2023, the Student's progress score on this goal was 2 out of 3. The Student sometimes initiated peer conversations and usually participated when other students initiated interactions with him. In the spring of 2024, the Student's score increased to 4 out of 5. Ms. Chamberlain reported sufficient progress on this goal. D21, pp7-8.

107. The Student also received SLP support on this social/emotional goal from Ms. Goldsmith during his Learning Strategies Class by participating in a weekly social group. Ms. Goldsmith submitted a progress update in March 2024. She reported that the Student had demonstrated improved conversational skills during a role-play scenario with another peer following a lesson on making small talk. The Student independently initiated the conversation with a greeting, followed by a question. Despite the peer's minimal response, the Student asked a follow-up question. Ms. Goldsmith also observed that, with minimal prompting, the Student appropriately adjusted his body to facilitate the conversation. D21, pp7-8.

108. In her June 2024 update, Ms. Goldsmith noted that the Student had demonstrated growth in his ability to ask clarification questions, make on-topic contributions to group discussions and initiate conversation with his peers. D21, pp7-8.

### **Social/Emotional Goal (Coping)**

109. Social/Emotional (Coping): When given a situation that the Student finds overwhelming, he will either continue with the task, or use a coping strategy (for example: self-soothing techniques, gesturing for assistance, using a keyword to tell the teacher that he is feeling overwhelmed, etc.) to retain or regain emotional regulation and return to the task in a timely manner, improving emotional regulation from continuing or returning to the task in a timely manner in 90% of opportunities (single data point) to continuing or returning to the task in a timely manner in 80% of opportunities as measured by teacher collected data over three data days. D21, pp8-9.

110. The Student's fall 2023 progress score was 100%. He either used coping methods that were not detected by the observer, or he did not find a situation overwhelming. The Student progress score was 96% in the spring of 2024. Ms. Chamberlain noted that the Student was becoming overwhelmed less frequently and managing those feelings well. She reported sufficient progress on this goal. D21, pp8-9.

111. In mid-March 2024, the IEP team decided to move the Student from his Learning Strategies class to a co-taught Study Skills class at the beginning of Trimester 3 to receive SDI on his behavior and social/emotional goals because he had been making progress on these goals. This change would give him more access to general education peer models. TR347-348; D15, p1. On March 14, 2024, the IEP service matrix was amended to show the service minutes for his SDI in behavior and social/emotional in a general education setting, instead of a special education setting. This changed the percentage of time the Student spent in the general education setting to 98% for that trimester. D15, p63 &66.

112. On June 11, 2024, the Parents notified the District that they intended to unilaterally place the Student at a private school, which they identified as Brightmont Academy<sup>18</sup> (Brightmont) starting in September of 2024. They proposed a hybrid schedule where the Student would take ELA, math and science at Brightmont and social studies, electives and “SDI” at Beaver Lake. P30; TR67-68. The Parents requested that the District pay for the outside placement. D20, p4.

113. Ms. Parent explained that the reason they decided to enroll the Student at Brightmont was because they believed that things were “not working” at Beaver Lake. Ms. Parent attributed this to her belief that the teachers did not have the time to implement what the Student needed during his school day:

We realized that it is not possible that the teacher can give him all this attention to rephrase, give him enough time to process the lecture, and to demonstrate, at the same time taking care of the rest of the class.

TR67. Ms. Parent was also concerned about the toll her tutoring schedule was taking on the Student’s health. TR68. The Parents also believed that the majority of what the Student was learning was due to Ms. Parent’s tutoring. TR113. They did not believe that the Student was sufficiently progressing with his core academic studies at Beaver Lake. TR118.

114. The Parents decided to keep the Student at Beaver Lake for some of his classes because they loved the school and wanted him to be able to keep taking classes there and participating in after-school sports. TR67-68; TR118. The Parents recognized the importance of being in a traditional educational environment. TR 111.

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<sup>18</sup> Brightmont is a local non-public agency (NPA). An NPA is a state-approved private facility where students receive their education in a private setting. These settings sometimes include small class sizes or one-on-one instruction. TR253-254, 409 & 760.

115. The IEP team met on June 14, 2024, to discuss the Parents' decision to unilaterally place the Student in a partial outside placement beginning in the fall of 2024. Counsel for both the Parents and the District attended the meeting. The Parents requested that the District fund the placement as part of the Student's IEP. D20, p4.

116. When a request is made for a change in placement to a more restrictive environment, the District requires a comprehensive reevaluation to determine the Student's needs and current levels of functioning. TR405. The District issued two PWNs on June 14, 2024, following the IEP meeting. One informed the Parents that their request for private placement would be decided after the completion of a full reevaluation. D20, p4. The second one initiated the reevaluation of the Student. The District emailed these two PWNs to the Parents that same day, together with a Consent for Reevaluation and several other forms to be completed and returned. D19, p1.

117. The Student earned As and Bs in all his graded 7<sup>th</sup>-grade Beaver Lake classes. D28, p9; D29, p4.

118. In June 2024, the Student took the SBAC in Math and ELA. The Student's scores placed him at "L2" in ELA (Approaching standard) and "L3" in math (Proficient). D24; D28, p8.

### **2024 – 25 School Year (8<sup>th</sup> Grade)**

119. School psychologist Melinda Mechler<sup>19</sup> transferred to Beaver Lake for the 2024-25 school year, replacing Jessica Tsutsumi. TR406. She took over as case manager for the reevaluation triggered by Parents' request that the District fund the private outside placement at Brightmont. TR405. On August 30, 2024, Ms. Mechler scheduled an IEP team meeting for October 8, 2024, to discuss the results of the pending reevaluation. D28, p1.

### **Eighth Grade - Trimester 1 (Hybrid Schedule)**

120. The Student began his split schedule between Brightmont and Beaver Lake at the beginning of the 2024-25 school year. He took math, ELA and science at Brightmont in the morning. In the afternoon, he took Art, Academic Lab, Social Studies and Study Skills at Beaver Lake. D22, p1; D44; P27; TR69 & 86-87.

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<sup>19</sup> Ms. Mechler has served as school psychologist for the District for the past 17 years. She received her master's degree in educational psychology and special education and her Pupil Personnel Services Credential as a school psychologist from California State University, Long Beach. Ms. Mechler estimates that she has conducted over 500 special education evaluations. TR403-404 & 446.

121. Brightmont employs approximately 30 instructors, 5-6 of whom are certificated. The school has a special education director and an estimated two teachers with a special education endorsement. TR744-745. The instructional sessions are 55 minutes. TR756. The classrooms are large offices where a teacher and a student work together one-on-one. TR766. Socialization is not built into the school day because the students come and go at all hours of the day and on different days of the week, although there is a communal space where a community puzzle is available for students to work on. TR771. The Student was served exclusively in a one-to-one setting. TR766. He did not receive any formal special education services. TR745.

122. Ms. Parent continued to tutor the Student for the one core class he was still taking at Beaver Lake (Social Studies) but spent much less time doing so. TR69-70; D44. Ms. Parent did not tutor the Student for any of the classes he was taking at Brightmont. TR87.

123. The Student took the iReady Reading Diagnostic in September 2024. His overall score placed him at a seventh-grade level.<sup>20</sup> D27, pp5-7. The Student's overall score on the October 2024 iReady Math Diagnostic placed him in the early eighth-grade level. D27, pp3-4.

124. The Student obtained a Level 4 (meets benchmark) in both math and reading on "Star" testing administered by Brightmont in October 2024. D28, p9.

### **October 8, 2024 Reevaluation**

125. Ms. Mechler conducted the multidisciplinary psychoeducational evaluation of the Student, which was completed on October 8, 2024 (2024 Reevaluation). The Student was evaluated in the following areas: Reading, Cognitive, Behavioral, Math, Health & Development, Speech/Language, Written Language and Social Emotional. D28, p10; TR405 & 407-408.

126. Ms. Mechler gathered input from the Student's eighth-grade teachers as part of the reevaluation. Ms. Chamberlain reported that the Student had shown great growth in his ability to following instructions given to the whole class. He also interacted with preferred peers and did a great job ignoring peers who were distracting. Ms. Chamberlain noted that the Student continued to benefit from additional processing time and check-ins for understanding. The Student's art teacher reported that, other than an occasional reminder about assignment completion, the Student was doing

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<sup>20</sup> Principal Coffin was not concerned that the Student was one grade below grade level at the beginning of the year. She explained at the hearing that all students slide in their reading skills over the summer and the Student's scores were within the bell curve average compared to his peers. She described this as the "summer slide." TR291-292.

great. She shared that the Student was starting to respond and comment to other students who sat close to him, which she had not noticed before. His study skills teacher reported that the Student needed reminders and check-ins, but that when he knew what he was supposed to be doing, he always worked on the task at hand. D28, pp52-53.

127. Ms. Mechler also included input from the Student's instructors at Brightmont. The Student had two different science instructors and seven different math instructors. D28, p53; 751-753. His science teachers reported that the Student was progressing well but that new vocabulary words were a challenge for him. D28, p53. His English teacher noted that the Student struggled with critical thinking questions and had challenges with written and verbal expression, vocabulary and decoding skills. She observed that breaking information into pieces, follow-up questions and discussions were helpful to him. D28, pp53-54. One of the Student's math teachers reported that the Student was generally doing well but that he sometimes struggled with word problems. D28, pp53-54.

128. Ms. Mechler incorporated personal written statements from the Parents and the Student that were provided before the IEP team meeting. The Student shared that he thought he learned a lot better in his one-on-one classes. The Parents expressed their concern regarding the Student's current educational setting at Beaver Lake, noting that he struggled in a typical classroom environment. D28, pp50-51; P6 & P7.

129. The Parents did not request that an FBA be conducted as part of the evaluation. TR427-428.

### **Speech Language Evaluation**

130. Ms. Goldsmith performed a speech/language evaluation on September 23, 2024. She reviewed the Student's file as part of her evaluation, which included his previous evaluation, IEP goal progress information and teacher reports. D28, p10.

131. Ms. Goldsmith's assessment of the Student's speech fluency, voice quality, articulation, and intelligibility did not reveal any concerns, although she noted that the Student would, at times, reformulate his statements and sometimes used fillers (e.g. "uh, um"), which suggested the need for additional processing time when responding to questions. D28, p14.

132. Ms. Goldsmith administered the Comprehensive Evaluation of Language Fundamentals – 5<sup>th</sup> Edition (CELF-5), to assess the Student's receptive and expressive language abilities. The Student's test results showed that his receptive and expressive language skills were within the average range when compared to same-aged peers.

Ms. Goldsmith noted that this was a significant improvement from previous language testing done in 2023, which had used the OWLS II Oral Language Composite. Most of the gains were seen with expressive language, where the Student score went from “significantly below average” to “average.” Ms. Goldsmith concluded that the test results revealed that the Student no longer presented with an expressive/receptive language disorder. D28, p16.

133. Ms. Goldsmith also administered the Pragmatic Language and Non-Literal Language subtests of the Comprehensive Assessment of Spoken Language-2 (CASL-2) to assess the Student’s social communication skills. The Student’s score on the Pragmatic Language subtest placed him below the average range when compared to his same-aged peers and his score on the Non–Literal Language subtest placed him well below the average range. Ms. Goldsmith found that these scores indicated that the Student continued to demonstrate significant challenges in these areas. She noted that pragmatic deficits and difficulties in interpreting non-literal language were hallmark characteristics of autism. D28, p16.

134. Ms. Goldsmith concluded that the Student demonstrated age-appropriate intelligibility/articulation, expressive/receptive language, voice, and fluency skills and that his language skills were fully intact. D28, p20. However, she found that the Student continued to demonstrate executive functioning and social/emotional challenges (including attention, task initiation/completion and emotional regulation) and that he continued to demonstrate the need for support in social communication (pragmatic language skills) and non-literal language. D28, p20.

135. Ms. Goldsmith recommended that the Student receive speech/language support as a related service to improve his social/emotional skills and communication in the classroom. D28, p20.

### **Cognitive Evaluation**

136. Ms. Mechler consulted with Ms. Goldsmith about her test results and, based on how well the Student did on his expressive and receptive language testing, Ms. Mechler decided to conduct a comprehensive IQ test.<sup>21</sup> TR411-412.

137. Ms. Mechler administered the WISC-V on September 16, 2024, to obtain a full picture of the Student’s verbal reasoning and comprehension as well as his visual-spatial problem solving. She also wanted to get an updated processing speed measure. TR418.

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<sup>21</sup> Ms. Mechler refers to the WISC-V as an “IQ” test in her testimony. TR412 & 418.

138. The WISC-V consists of ten primary subtests, which produce five Index Scores (Verbal Comprehension, Visual Spatial, Fluid Reasoning, Working Memory, and Processing Speed). A Full-Scale IQ (FSIQ) is produced from seven primary subtests that measure skills from these indexes. D28, p38.

139. The Student scored in the average range on all the indexes, except for processing speed, where he scored in the extremely low range with a score of 60 (0.4 percentile). The Processing Speed Index measures skills involving visual-motor integration, short-term memory, attention, concentration, visual scanning, and visual discrimination. The Student was required to use a key to copy symbols matched with numbers (Coding) and identify/discriminate specific symbols in a limited amount of time (Symbol Search). Ms. Mechler found that, while the Student's responses were accurate, he demonstrated a delay in grapho-motor<sup>22</sup> speed with copying tasks and less ability with visual scanning when there was a timed requirement. D28, pp39-41.

140. The Student achieved an FSIQ score of 98 (45<sup>th</sup> percentile), which placed him in the average range. Ms. Mechler noted that, due to the significant discrepancy between the scores on the Processing Speed Index compared to the other indexes, the General Ability Index (GAI) might be a better estimate of general intellectual ability because it is less reliant on working memory and processing speed relative to the FSIQ. D28, pp39-40. The Student's GAI score was 108 (70<sup>th</sup> percentile), which placed him in the average (approaching high average) range. D28, p40.

141. Ms. Mechler noted the Student's significant weakness with processing speed tasks when compared to his performance on the other indexes indicated that accurate visual scanning and fine motor dexterity in timed situations could be challenging for him.

142. Ms. Mechler cross-validated the processing speed results with an academic fluency test she administered in math, which is a one-minute timed test of simple calculations. The Student scored very low on the academic fluency test, but when given additional time, he scored within the average range. This revealed that the Student had the skills but had difficulty producing work at an average pace. TR422-423.

143. Ms. Mechler recommended the following accommodations to support the Student's weakness in processing speed:

- Provide copy of class notes to supplement his own notes

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<sup>22</sup> Grapho-motor refers to writing tasks such as copying from a board or writing down what a teacher is saying. TR421.

- Use of visuals to reinforce concepts during instruction
- Extended time on tests (100%) in a separate location
- Extended time on assignments (up to 2 days)

D28, p41.

### **Reading, Writing and Math Evaluations**

144. Ms. Mechler administered the KTEA-3 on September 17 and 24, 2024, to assess the Students skills in reading, writing and math. Ms. Mechler also reviewed prior evaluations, the Student's IEP goal progress data and state testing results. D28, pp21-32.

#### *Reading*

145. Ms. Mechler administered the Letter & Word Recognition, Reading Comprehension and Non-Sense Word Decoding subtests from the Reading and Decoding Composites of the KTEA-3. She also administered a supplementary subtest in oral reading fluency.

146. The Student performed in the average range (27<sup>th</sup> percentile) on the Letter & Word Recognition subtest, which measures how well a student reads real world words under untimed conditions. He performed in the below average range (14<sup>th</sup> percentile) on the Reading Comprehension subtest, which measures comprehension of literal and inferential information from narrative and expository passages. The Student demonstrated relative strength on the Nonsense Word subtest, which measures the ability to use phonics and structural analysis to decode words that are not real, scoring in the 58<sup>th</sup> percentile (average range).

147. The Student scored in the below average range (7<sup>th</sup> percentile) on the Silent Reading Fluency subtest. On this subtest, the Student was given two minutes to silently read simple sentences and mark "yes" or "no" to indicate whether the statement were true or false. Ms. Mechler noted that the Student was accurate on all his responses but his fluency and grapho-motor speed with academic tasks was an area of weakness. D28, p22.

148. Ms. Mechler noted that the Student's performance on state testing showed steady gains with his reading. On the SBAC, he went from Level 1 (Below Standard) in 6<sup>th</sup> grade to Level 2 (Approaching Standard) at the end of 7<sup>th</sup> grade. Additionally, the Student's overall Diagnostic scores on his iReady assessments showed growth, going

from 4<sup>th</sup> grade level (May 2023) to 6<sup>th</sup> grade level (January 2024) to 7<sup>th</sup> grade level (September 2024). Ms. Mechler also noted the Student's "Star" assessment results from September 2024 from his private school that indicated he was at benchmark for his grade in reading. D28, p25.

149. Ms. Mechler's evaluation revealed that the Student continued to have reading challenges. While the Student performed well when responding to literal questions and did better when interpreting clues from non-fictional texts, Ms. Mechler found that his skills were still developing with making inferences from texts when the answer was not clearly stated. D28, p25.

150. Ms. Mechler recommended SDI to support the Student's reading development with a focus on skills to improve his reading comprehension and fluency. D28, p25.

### *Writing*

151. Ms. Mechler administered the Written Expression and Spelling subtests of the KTEA-3 to assess the Student's writing skills. The Written Expression subtest requires the student to complete writing tasks, such as writing sentences, filling-in-the-blanks with appropriate words and editing, within the context of a grade-appropriate story. The Student scored in the below average range (12<sup>th</sup> percentile). Ms. Mechler noted that the timed format of the test and the topic (writing an article about a day on a movie set) posed challenges for the Student. The Student scored in the average range (39<sup>th</sup> percentile) on the Spelling subtest, indicating that his skills were on par with same-age peers. D28, pp26-27.

152. Ms. Mechler recognized that the Student's IEP goal progress for written expression – over multiple data points – indicated that he had made progress with his goal of developing a paragraph. However, she determined that his performance on the current standardized writing assessment demonstrated that he had difficulty with expressing himself clearly in writing. Ms. Mechler reported that the IEP team believed that the Student continued to need support with developing his skills to improve his academic writing. She recommended SDI to support the Student's writing development and suggested a potential goal that targeted writing a multi-paragraph essay. D28, p28.

### *Math*

153. Ms. Mechler administered the Concepts & Applications, Computation, and Fluence subtests of the KTEA-3 Math Composite. The Student performed at the 50<sup>th</sup> percentile (average range) on the Concepts & Applications subset, which required oral responses to the application of math principles to real life situations. Ms. Mechler found that the Student demonstrated steady gains in math reasoning compared to his

previous standardized assessment. On the Computation subtest, the Student performed at the 70<sup>th</sup> percentile (average range). Ms. Mechler commented that the Student worked very hard on this subtest, spending over an hour to answer as many questions as he could without demonstrating any frustration. She concluded that his math computation skills were well within the range expected for his age and grade.

154. The Student scored in the 1<sup>st</sup> percentile (very low) on the math fluency subtest, which measures the ability to quickly write answers to addition, subtraction, multiplication and division problems within a 60-second time limit. Ms. Mechler reported that the Student's answers were accurate but that he was only able to answer 16 basic single-digit math problems within the 60-second time limit. She concluded that the Student's relative weakness in grapho-motor and processing speed under time constraint may have contributed to his slower academic fluency. D28, pp29-30.

155. Ms. Mechler found that the Student's state and district assessments showed a pattern of continued growth with his math skills. She noted that he met standard at the Proficient level on the SBAC assessment the previous year and that his performance on the current (Sept-October 2024) iReady assessment indicated an early 8th grade skill level. The Student had also completed a Star assessment at his private school in October 2024 and scored at Level 4, indicating he met the benchmark for his grade level. Ms. Mechler also found that the Student had demonstrated progress on his IEP math goals and that his performance on the KTEA-3 showed that his math skills were comparable to his same-age peers.

156. Ms. Mechler concluded that SDI was no longer recommended to support the Student's math development and would be discontinued. However, based on the Student's difficulty with academic fluency in math and slower processing with grapho-motor output, Ms. Mechler recommended the following accommodations to support his continued math development:

- Allow additional time in class to complete tasks - or teacher check-in for mastery
- Extended time on assessments (100%)
- Extended time on assignments (up to 2 days)

D28, p32.

### **Social/Emotional Evaluation**

157. Ms. Mechler used the rating scales from the Social Skills Improvement System Social Emotional Learning Edition (SSIS SEL) to assess the Student's social/emotional

skills. The SSIS SEL breaks these skills into five competencies: Self-Awareness, Self-Management, Social Awareness, Relationship Skills, and Responsible Decision Making. D28, p32. The ratings endorsed by the Student and the Student's teacher, did not indicate significant difficulties with social skills but did reveal continued areas of weakness with relationship skills. The Student's father endorsed ratings that indicated significant social skills deficits in all of the competencies with the exception of responsible decision making and social awareness. All raters reported responsible decision making as a relative strength, indicating that the Student was a responsible student and almost always followed school and household rules. D28, p33-34.

158. Ms. Mechler concluded that based on the SSIS SEL rating scales, teacher input, student interview, IEP goal updates and parent feedback, the Student continued to need SDI and support to further develop his social skills relating to others, including initiating and group participation. D28, pp36-37.

### **Behavior Evaluation**

159. Ms. Mechler used the BRIEF-2 to measure the Student's executive functioning skills. The Student completed a self-report rating form on September 17, 2024. Ms. Chamberlain completed the teacher form on September 18, 2024. Mr. Parent completed the parent form on September 20, 2024. D28, p45.

160. None of the Student's rating scales were elevated, indicating that the Student viewed himself as having the ability to self-regulate, get going on tasks, and plan and organize his approach to problem-solving appropriately. Ms. Chamberlain's responses indicated mildly elevated concerns with the Student's social awareness and ability to sustain working memory. She noted that he had difficulty with multi-task instructions. and task-initiation. Mr. Parent's responses indicated a clinically elevated overall score. D28, p45.

161. Based on her evaluation, including the results from the BRIEF-2, Ms. Mechler determined that the Student continued to require SDI in behavior for support with executive functioning to address task initiation and completion. D28, p47; TR427.

### **Observations**

162. Ms. Mechler observed the Student in his ELA class at Brightmont on September 30, 2024. The Student and his instructor sat at a computer together and worked through a unit using the school's online curriculum. D28, pp48-49. Ms. Mechler's general impression was that the instructors went at his pace, which was a slower pace than a normal classroom. She questioned whether the breadth of instruction was the

same as would be found in a general education or comprehensive school setting. TR425.

163. On October 7, 2024, Ms. Mechler observed the Student in his Social Studies class at Beaver Lake. The Student sat attentively at a table in the front of the class with five other students listening to the teacher give verbal instructions for a class project. The Student raised his hand after the teacher held up an article about the Vietnam War and said that it was likely that the students' parents were alive during the war. The Student commented that his Parents were not alive during that time and gave their dates of birth. D28, pp49-50. Ms. Mechler was impressed that the Student had called out something that the teacher had said in a class of around 30 students. She observed that he followed directions and was cooperative with step-by-step instructions given to the class. TR452-426.

164. An evaluation feedback meeting was held on October 8, 2024. D28, p59-60. Based on the reevaluation results, the team concluded that the Student remained eligible for special education services under the category Autism. The team also determined that he required SDI in the areas of reading, written expression, social/emotional, and behavior (executive functioning). It was also recommended that the Student receive SLP support as a related service for continued development of his social communication skills. D28, p51.

165. Based on the Student's steady growth with his math skills as demonstrated by his IEP goal progress, test scores and the current reevaluation results, the evaluation team determined that SDI for math would be discontinued, effective October 11, 2024. D28, p59-60.

166. The evaluation team noted that the reevaluation results indicated that it appeared the Student's educational needs could be met in a general education setting with SDI and supports, as opposed to a 1:1 instructional environment. It was determined that this approach aligned with the principle of educating the Student in the least restrictive environment (LRE). A discussion of IEP goals and any revisions to delivery of instruction were to be determined at the IEP meeting. D28, p51.

167. In sum, the evaluation team did not identify any significant data or evidence that indicated a need for the Student to be placed in a more restrictive one-on-one instructional environment, as requested by the Parents. The team considered the Student's LRE to be his setting at Beaver Lake. TR428-429 & 438. Ms. Mechler opined at the hearing that the school had the supports the Student needs to facilitate him doing well, so "we just need to work with him on his areas of need and make sure we design accommodations that are appropriate." TR441-442.

168. On October 30, 2024, Ms. Chamberlain sent the Parents a meeting invitation for November 4, 2024, to discuss the Student's IEP, a draft of which was included with the invitation. D30, p1.

#### **November 4, 2024 IEP**

169. The IEP team convened on November 4, 2024. Counsel for both the Parents and the District participated in the meeting. D31, p5. At the meeting, the Parents informed the team of their decision to return the Student to Beaver Lake full time for Trimester 2. TR133-134. The team agreed to prepare a full schedule that provided the Student with the service minutes listed in his IEP. D31, p2.

170. The IEP team agreed to remove the following accommodations:

- Use of a calculator, number line, graph paper, graphic organizer, and/or multiplication table as needed for math or science assignments/assessments.
- Access to word banks on assignments and assessments
- Allowing Student to test orally when available to better determine his understanding of material.

D31, p2.

171. The team agreed to add the following accommodation: "Reduce the number (not difficulty) or problems on assignments and assessments as needed." The Parents objected to adding this accommodation. They also objected to the accommodation allowing for the use of multiple modalities to demonstrate learning.<sup>23</sup> The Parents rationale was that they wanted to ensure that the Student was held to the same rigor and standards as other students. The team shared the Parents goal but noted that the accommodations allowed the student to access his education without sacrificing rigor or modifying the academic standards. The team noted that the educational experts had recommended including these accommodations and supports to allow the Student to access and make educational progress in light of his disability. The team explained that the accommodations did not necessarily decrease the academic rigor of a course, but rather increased accessibility to diverse learners. Although the Student was also accommodated with extra time, the team felt that reducing his workload and

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<sup>23</sup> The Parents submitted a letter of dissent dated December 9, 2024. They asked the District to either remove these two accommodations or document that their request that they be removed was rejected. The Parents shared their belief that the Student's success at Brightmont demonstrated that he did not need these two accommodations and that reducing the number (not difficulty) of problems, as needed, was "lowering the bar" because it did not hold the Student to the same rigorous standards as his peers. P17.

allowing for alternative means of showing proficiency would allow the Student to access his education, while accommodating his disability. The team clarified the multiple modalities accommodation by adding the language “with the same academic standards.” D31, pp2-3.

172. Based on the Student’s slower processing speed, the IEP team emphasized the importance of the accommodation to reduce the amount of work versus making sure the Student was learning the same things as his peers. This had been a frequent topic of discussion at IEP team meetings. TR283-285. This accommodation was not just for the classroom setting. It was meant to alleviate the amount of work Ms. Parent had informed the IEP team that the Student was doing at home after school. If the Student could show mastery of a particular subject with a smaller amount of work both at school and at home, the IEP team wanted to facilitate that. TR311.

173. Ms. Mechler concluded that the Student was intelligent, motivated to do his best and cooperative. In her opinion, when you have a student with this Student’s level of intelligence and motivation coupled with a slow processing speed, decreasing the quantity in favor of the quality of the work should be considered to allow him to show mastery. She reasoned that this would level the playing field for him and avoid unnecessary frustration over excessive busy work. TR420-421.

174. The Student’s updated accommodations provided:

- Preferential Seating (to improve focus and engagement)
- Utilize pro-social peer models when appropriate and possible
- Break lessons or directions into smaller units
- Provide visual aids (rubrics, checklists, graphic organizers, and visual models)
- Regular check-in with student for understanding of directions and academic content
- Give additional processing time
- Give single step instructions
- Support student to sustain attention, cue verbally, non-verbally, or with gentle reminders
- Use positive feedback and redirection when needed

- Demonstrate and model tasks
- Provide a copy of teacher notes and study guides with answers (on teacher's website is OK) and allow time to review
- Use computers for writing assignments, to track assignments, to use software to support student learning
- Reduce number (not difficulty) of problems on assignments as needed.
- Provide student special schedules ahead of time, alert when there will be changes in his schedule.
- 2 days extra time for assignments (without penalty)

Testing:

- Test individually, in a small group, or a separate location
- Extended Time: 100% additional time for assessments
- Allow student to type his answers when available to better determine his understanding of material
- Reduce number (not difficulty) of problems on assessments as needed.
- Opportunity to show learning through multiple modalities (with same academic standards)

175. The IEP team addressed each of the Student's existing IEP goals and, based upon the most recent goal progress data obtained in the fall of 2024, made the changes set forth below.

176. Reading Fluency: Goal progress from fall 2024 indicated that Student was using most of the basic rules of pronunciation (decoding/spelling), but he was not yet incorporating some of the more advanced rules. He read an eighth-grade passage with 102 correct words per minute (cwpm) and 98% accuracy. Ms. Chamberlain recommended changing the Student's goal from working on 7<sup>th</sup> grade passages to working on 8<sup>th</sup> grade passages. D31, p11.

177. Reading Comprehension: In October 2024, the Student read an eighth-grade fiction passage and scored 100% on literal comprehension questions and 50% on

inferential comprehension questions. Ms. Chamberlain recommended modifying the goal to the 8<sup>th</sup> grade level as he had met his previous goal. D31, p16.

178. Written Expression: In fall 2024, the Student achieved a rubric score of 18/20 when given 10 minutes to write a paragraph on a topic of his choice. He also wrote a paragraph summarizing a story that he had read. When scored on a 20-point rubric, he scored 17/20. When scored on an 8-point rubric, he scored 6/8. The Student had met his single-paragraph goal. Ms. Chamberlain recommended changing the goal to a multi-paragraph goal using an 8-point rubric because the Student had met his single-paragraph goal. D31, pp20-21.

179. Social/Emotional Goal (peer interaction): Based on input received from the Student's teachers in the fall of 2024, Ms. Chamberlain determined that, although the Student was making progress, he had not yet mastered this skill. She therefore recommended continuing the goal with an updated baseline. D31, p25.

180. Social/Emotional Goal (coping strategies): Based on the input from the Student's teachers, Ms. Chamberlain concluded that the Student had mastered this goal and recommended that it be discontinued. D31, p26.

181. Behavior Goal: Ms. Chamberlain concluded that progress updates from the fall of 2024 from the Student's teachers demonstrated that he had met his goal but only with prompting. She recommended changing the goal to independently begin working, remain on task and complete work. D31, p29.

182. Based on the results of the 2023 reevaluation and the fall 2024 progress data, the team established the following updated IEP goals:

Goal #1 - Reading Fluency: When given a passage at the 8<sup>th</sup> grade level, the Student will read the passage aloud, improving fluency from 98% accuracy and 102 correct words per minute (cwpm) to 95% accuracy and 130 cwpm. D31, pp11-12.

Goal #2 – Reading Comprehension: When given a passage at the 8<sup>th</sup> grade level, the Student will independently read the text and answer comprehension questions, improving reading comprehension skills from 75% accuracy to 80% accuracy. D31, p17.

Goal #3 – Written Expression: When given a prompt and asked to respond in paragraph form, the Student will independently dictate/type/write an essay with 3 paragraphs, each with five sentences including a topic sentence, supporting details, and a concluding

sentence, with correct sentence structure, grammar, and conventions, improving written expression from each paragraph scoring 6/8, to each paragraph scoring 8/8 on the attached rubric. D31, p21.

Goal #4 – Social/Emotional: When given the opportunity to interact with peers in a class setting, the Student will initiate and/or maintain an appropriate conversation, improving expected behavior toward peers from 70% of opportunities to 80% of opportunities. D31, p26.

Goal #5 –Behavior: When in the general education setting, the Student will independently begin working, remain on task, and complete work, improving task initiation, perseverance, and work completion from 85% of the time to 90% of the time. D31, p29.

183. The Student’s updated SDI service matrix for the remainder of Trimester 1 (11/12/2024 to 11/25/2024) provided:

Educational Services (Weekly Minutes: 1700)

SDI	Provider	Minutes	Frequency	Location
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	420	Monthly	In Special Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	420	Monthly	In Special Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In Special Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	84
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D31, pp35-36.

184. The Student was also scheduled to receive 120 minutes of SLP services per month as a related service to support his pragmatic language skills and progress on his social/emotional IEP goal. These minutes would be delivered in a special education setting. D31, pp36.

185. The Student's updated SDI service matrix beginning Trimester 2 (11/26/2024 to 7/31/2025) provided:

**Educational Services (Weekly Minutes: 1700)**

<b>SDI</b>	<b>Provider</b>	<b>Minutes</b>	<b>Frequency</b>	<b>Location</b>
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In General Education
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	420	Monthly	In Special Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	420	Monthly	In Special Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In Special Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	50	Monthly	In Special Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	84
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D31, p38.

186. The Student's SLP services remained the same. D31, pp38-39.

187. The Student's updated SDI service matrix for his ninth-grade year (7/31/2025 to 11/3/2025) provided:

**Educational Services (Weekly Minutes: 1820)**

<b>SDI</b>	<b>Provider</b>	<b>Minutes</b>	<b>Frequency</b>	<b>Location</b>
Written Language Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	40	Monthly	In General Education
Reading Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	40	Monthly	In General Education
Behavior Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	80	Monthly	In General Education
Social/Emotional Monitored By: Sp Ed Teacher	Sp Ed Teacher or Designee	80	Monthly	In General Education

% (LRE) Inside General Education: (Total Minutes of General Education/Weekly Minutes)	100
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188. The Student was scheduled to receive 30 minutes per month of SLP support for his pragmatic language skills and progress on his social/emotional IEP goal during ninth grade. D31, pp41-42.

189. The team noted that for eighth grade, the Student needed SDI in a pull-out setting in the areas of writing, reading, behavior, and social/emotional. For the ninth grade, the team recommended an inclusion class for ELA and Guided Studies. D31, p36.

190. The IEP team determined that the Student qualified for SDI in behavior but that he did not require a BIP. D31, p32.

191. On November 25, 2024, Ms. Chamberlain informed the Student’s teachers of the Student’s new IEP and provided them with an IEP summary. D33.

**Eighth Grade - Trimester 2 (Beaver Lake)**

192. The Parents decided to return the Student to Beaver Lake full-time for Trimester 2 and see how the Student would do without the benefit of Ms. Parent’s tutoring. TR69-70; TR134-135. Accordingly, upon the Student’s return to Beaver Lake, Ms. Parent reduced the amount of time she spent working with the Student outside of school to approximately 1 hour a day during the weekday and on weekends.

193. Ms. Parent acknowledged that cutting back her tutoring did not negatively affect the Student’s final grades but she attributed this to her belief that the Student was allowed to retake tests with easier questions and was sometimes exempted from assignments that were too hard. TR87-89 & 98.

194. Katharine Chrisman<sup>24</sup> taught the Student’s seventh-grade ELA class. She also taught his ELA class upon his return to Beaver Lake for Trimester 2 of his eighth-grade year. Ms. Chrisman worked closely with the Student on many of his assignments, so she was familiar with his writing. TR567-568. She described the Student as a great reader, who understood what he was reading. TR573. Ms. Chrisman noted that the

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<sup>24</sup> Ms. Chrisman is a middle school general education ELA teacher. She received her undergraduate degree from the University of St. Andres in Scotland and her master’s in education from Seattle University

Student had challenges with nuanced thinking when reading texts but over the two years she worked with him, his abilities in this area had improved. TR570.

195. Andrew Featherston<sup>25</sup> taught the Student's eighth-grade math class, which was a year-long course. When the Student joined the class for Trimester 2, he had missed 1/3 of the content of the course. TR658-661.

196. Because the Student joined the class late, he missed Mr. Featherston's instructions for turning in homework and Mr. Featherston forgot to explain it to him when he arrived in Trimester 2. The Student started showing Mr. Featherston his homework without being asked to do so. Because this worked well for the Student, Mr. Featherston decided to continue using that system for the Student's homework. TR663.

197. Mr. Featherston described the Student as quiet and hardworking. He noted that, at times, it was clear that the Student was overstimulated but that when he was feeling well, he picked up concepts and performed as well on assessments as his peers. TR661. Mr. Featherston reported that the Student was good at math and that he was happy with the Student's progress in his class. TR668-669. He also believed that the Student was self-sufficient and that a little support went a long way with him. TR669-670.

198. Ms. Goldsmith continued to provide SLP services to the Student in the eighth grade. TR676. She provided the same services as the seventh grade but in a pull-out setting. She would also push-in to his classroom to observe and make sure the Student and the teachers had the resources and training to support him. TR682-683. Ms. Goldsmith did not have any concerns about the Student's rate of progress on the skills that she was supporting. TR693.

199. At the hearing, Ms. Goldsmith shared that, in her opinion, the Student made a lot of social/emotional growth from seventh grade to eighth grade. In the seventh grade, the Student did not interact with his peers very much. By the eighth grade, he was engaging in more reciprocal interaction with his peers and asking question like "what do you think?" on a more frequent basis. TR681-682.

200. Ms. Goldsmith had some concerns about the Student moving to a one-on-one learning environment because she believed working with peers was important for his social communication challenges. TR702.

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<sup>25</sup> Mr. Featherston is a general education math teacher at Beaver Lake, where he has been for three years. He received his undergraduate degree in mathematics and economics from Occidental College in 2014 and his master's in education with an endorsement in secondary mathematics from Seattle University in 2019. TR656-657.

201. Principal Coffin also believed that Student had shown growth with peer interaction. When the Student was in the sixth grade, she noticed that he would sit alone at lunch and read a book, but by the eighth grade, he was sitting next to peers and interacting. TR251. In her opinion, the Student's going from very little social awareness in the sixth grade to a side-by-side interaction, was a developmental step. TR315-316. She believed that it was important for the Student to be in an environment where he was with his peers because he was still growing in this area. TR298-299.

### **IEP Goal Progress on Updated Goals**

202. The Student's IEP goal progress over the course of the first two trimesters, as documented in Ms. Chamberlain's goal progress reports is set forth below.

### **Reading Fluency**

203. Reading Fluency: When given a passage at the 8<sup>th</sup> grade level, the Student will read the passage aloud, improving fluency from 98% accuracy and 102 correct words per minute (cwpm) to 95% accuracy and 130 cwpm. D41, p3.

204. In the fall of 2024, the Student read an 8<sup>th</sup> grade passage with 100% accuracy at 70 cwpm and correctly sounded out 2 unfamiliar multi-syllable words. By the winter of 2024, the Student's 8<sup>th</sup> grade fluency had increased to 100% accuracy with 104 cwpm. D41, p3.

### **Reading Comprehension**

205. Reading Comprehension: When given a passage at the 8<sup>th</sup> grade level, the Student will independently read the text and answer comprehension questions, improving reading comprehension skills from 75% accuracy to 80% accuracy. D41, p3.

206. The Student's fall 2024 progress score on this goal was 65%. This was an average score based on his achieving 100% accuracy on literal comprehension questions and 30% accuracy on inferential comprehension questions after reading an 8<sup>th</sup> grade fiction passage. D41, p3. In the winter of 2024, the Student's progress scores over three data collection points were 90% accuracy on data day 1, 85% accuracy on data day 2 and 56% accuracy on data day 3. He was given a progress score of 56%, which was the success rate on his most recent data point. It is unclear why the average of the three scores, which was 77%, was not used as the Student's winter progress score. D41, p3.

## Written Expression

207. Written Expression Goal: When given a prompt and asked to respond in paragraph form, the Student will independently dictate/type/write an essay with 3 paragraphs, each with five sentences including a topic sentence, supporting details, and a concluding sentence, with correct sentence structure, grammar, and conventions, improving written expression from each paragraph scoring 6/8, to each paragraph scoring 8/8 on the attached rubric. D41, p4.

208. The Student's fall 2024 progress score was 4 out of 8. The Student demonstrated an ability to organize his thoughts into a narrative structure and showed creativity by incorporating historical context into his narrative but his writing lacked the depth needed for a full five-sentence paragraph. Areas of improvement included adding more supporting details and improving sentence structure and grammar. D41, p4.

209. The Student achieved a score of 5 out of 8 on the last data collection day from the winter 2024, which involved an essay about Abraham Lincoln. D41, p4.

## Social/Emotional

210. Social/Emotional Goal: When given the opportunity to interact with peers in a class setting, The Student will initiate and/or maintain an appropriate conversation, improving expected behavior towards peers from 70% of opportunities to 80% of opportunities. D41, pp4-5.

211. The Student's fall 2024 progress score on this goal was 52% based on an average from information received from his teachers (20% success rate, 50% success rate and 85% success rate). Ms. Chamberlain noted that the Student's peer interaction varied across settings. He was always polite and responded well to other students but sometimes did not take the initiative to start conversations. By the winter of 2024, the Student's progress score on this goal had improved to 73%. Ms. Chamberlain noted that the Student was initiating conversations with peers and responding well to peers who initiate conversations with him. D41, pp4-5.

212. SLP Laney Goldsmith submitted an update relating to the Student's social/emotion goal on December 9, 2024. She shared that the Student had been an active participant in a small social group and had demonstrated the ability to advocate clearly for his needs. She noted that the Student was still working on conflict resolution with peers and expanding his conversational abilities. D41, pp4-5.

213. In her winter 2024 update, Ms. Goldsmith shared that the Student had made great gains in his ability to participate prosocially in group activities. He did well with

compromising and listening to the perspectives of other students and demonstrated appropriate comments and flexibility when a peer disagreed with him. Ms. Goldsmith observed that the Student took an extended amount of time to process language and form his thoughts, sometimes taking a minute or more, but that when given adequate time to respond will give a thoughtful response. She noted that the extended processing time could make it difficult to know if the Student was still thinking or if he was not responding because he did not hear. Ms. Goldsmith planned to focus future therapy on teaching communication strategies to let others know that he is still thinking to indicate he heard the question (e.g. “hold on I’m thinking ...”). D41, p5.

## **Behavior**

214. Behavior: When in the general education setting, the Student will independently begin working, remain on task, and complete work, improving task initiation, perseverance, and work completion from 85% of the time to 90% of the time. D41, p5.

215. The Student’s fall 2024 progress score was 83%. D41, p5.

216. The Student’s winter 2024 scores ranged from 50% to 90% (with an average score of 72%) based on data received from three of his teachers. Ms. Chamberlain noted that the Student’s teachers reported that he worked slowly and carefully and that it sometimes looked like he had stopped working, when he was actually using “think time” and continuing to do his work. Ms. Chamberlain concluded that the Student was doing a good job staying on task. D41, p5.

217. Mr. Parent conducted 10 one-hour observations of the Student at Beaver Lake between November 2024 and February 2025.<sup>26</sup> TR114 & 186. His observations led him to believe that the Student was, at times, either not engaged, or picking up cues from other Students about what he should be doing rather than what the teacher had instructed. TR124-125; 188. Mr. Parent observed that the teachers made reasonable attempts to attend to the Student but that, without check-ins and prompting, he did not believe the Student was engaging. TR188.

218. Mr. Parent also observed the Student in three of his classes at Brightmont. He noted that the Student spent the whole hour learning. TR190-191.

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<sup>26</sup> Mr. Parent taught computer science to sixth-grader students for one year as part of his science fellowship requirements while he was living in Texas. He has not otherwise worked as a teacher. TR115 & 243.

### March 3, 2025 Educational Consultation Report

219. The Parents hired educational consultant Shayna Raphael<sup>27</sup> to provide feedback and informal recommendations relating to the Student's educational plan. She prepared a written report on March 3, 2025. She reviewed Dr. Dunbar-Mayer's IEE report, the October 2024 Reevaluation, the November 2024 IEP summary,<sup>28</sup> the PWN relating to the November 2024 IEP meeting, the Parents' Personal Statement, the Parents' 12/9/2024 dissent letter, and the Student's math and reading scores from the Star testing in the fall of 2024. Ms. Raphael began her report with the following caveat:

*This is not an assessment, and the school involvement was limited to facilitating the observation in each class period. These recommendations are intended only for the family's consideration as they navigate their son's educational planning. (emphasis in original).*

P18, p1.

220. On February 13, 2025, Ms. Raphael conducted a day-long observation of the Student at Beaver Lake. She observed the Student's teachers providing check-ins for understanding, 1:1 support, prompting with questions, and explicit, personalized directions. She noted that in his ELA class, the Student did not appear to take the initiative on a project until the teacher checked in with him toward the end of the class period, at which point the teacher assisted the Student appropriately. P18, pp4-8. Ms. Raphael concluded that the Student's engagement and participation varied greatly depending on the class environment, noting that, without prompting, he remained mostly quiet in the larger classes. She reported that, in the larger classes, the Student benefitted from explicit instructions, prompting, and frequent check-ins. P18, p9.

221. Ms. Raphael did not compare her observations of the Student with the behaviors of his peers as she was only focused on his behavior. TR629-630. She did not speak with any of the Student's teachers. TR630.

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<sup>27</sup> Ms. Raphael received a bachelor's degree in Speech and Hearing Science from the University of Washington in 2007, a master's degree in education from Pacific Lutheran University in 2015, a graduate certificate in Applied Behavior Analysis from Arizona State University in 2018, and a master's degree in education administration from the University of Kansas in 2025. She is a certificated teacher in Washington, with an endorsement in special education. She has worked as an Educational Consultant since 2017. TR 581-584; P22.

<sup>28</sup> Ms. Raphael did not review the full November 2024 IEP. TR632 & 634.

222. At the hearing, Ms. Raphael stated her belief that the Student needed a high-level of individualized support that would be unreasonable to expect a general education teacher to provide because they do not have the time or capacity. TR614. She also shared her belief that the services provided at Brightmont aligned with the Student's needs. TR615-616.

223. Ms. Raphael acknowledged that the teachers at Beaver Lake implemented "great" supports and services and that the general education teachers were doing a great job. She emphasized that the teachers weren't doing anything wrong. TR629.

224. Ms. Raphael thought an FBA might be helpful given her observations of the Student's quiet behaviors. P18, p9; TR607.

225. On March 6, 2025, the Parents made two requests. First, they asked the District to conduct an FBA, as recommended by Ms. Raphael. D39. The behaviors the Parents wanted to assess through the FBA were the Student's engagement and task initiation. TR91. They believed an FBA would provide additional information that would be helpful. TR139. Second, they again requested placement at Brightmont for the Student's core academic classes. The District declined both requests. D39.

226. In the March 12, 2025, PWN denying these requests, the District explained that an FBA was not recommended based on its determination that the Student's grades and IEP Progress goals relating to his behavior goal indicated that he was making progress in his general education curriculum with support from his SDI and accommodations. The District explained that it was declining the Parents' request for private placement because it concluded that the Student's LRE was within public-school programming:

Current data does not support placement in a 1:1 private setting, as this is not considered the least restrictive environment. Furthermore, the team strongly feels that placing the Student in a 1:1 environment will not be beneficial for him to further develop the soft skills necessary to be successful in higher education and the workplace.

D39.

227. The Student's Beaver Lake grades at the time of the Parent's request for private placement ranged from 80% to 100%. D39, p2.

228. Tammy Unruh<sup>29</sup> was involved in the decision to decline the Parents' request for private placement in March 2025. The request was denied because at the time of the request, the team determined that the Student was, by all measures, performing very well in all his classes. He was also not engaging in behaviors that were interfering with his learning or the learning of others. D39; TR463.

229. Ms. Mechler was consulted on the decision to decline the request for an FBA. She was surprised by the request because they had not previously determined that there was any behavior problem that was significantly interfering with his learning. TR443-444. Ms. Mechler did recognize that:

[F]rom prior evaluations, there was some note of attention problems interfering with learning, but with his progress over time, and with my experience working [with] him and observing, again, it's back to he appears to be quietly distracted, when he is really just taking in information and he is able to learn even though it appears he might be quietly off task.

TR444. At the time the request for an FBA was made, the IEP team was not seeing that the Student's behavior was having a significant education impact on his learning. TR445. Ms. Mechler supported the decision to reject the request for an FBA. TR445.

230. The Parents completely withdrew the Student from Beaver Lake, effective March 21, 2025, and Ms. Parent began homeschooling him again. D40; TR91 & 102.

231. The Parents withdrew the Student and decided to homeschool him for Trimester 3 because they believed that they had two choices, neither of which was acceptable to them: "One choice he is not learning. The other choice is he is living a very unhealthy life." TR71. They did not see any benefit to him attending Beaver Lake because they did not believe he was learning in that setting without Ms. Parent's tutoring. TR141-142.

232. The Parents were also concerned about the way the Student was being graded on assignments in the eighth grade. Mr. Parent gave three examples, two from math and one from social studies, where he did not believe the Student's work justified the grades he received. P8-10; P11-13; P14-16; TR191-192; 196-197; 201-206.

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<sup>29</sup> Ms. Unruh has served as the District Special Services Director for Secondary Schools for the past four years. She has a Bachelor of Science Degree in Secondary Science Education, a master's in educational leadership, and an English Language Learners certification. TR451-452.

233. Mr. Parent was also critical of Mr. Featherston's (math teacher) apparent decision to give the Student credit for an assignment he did not turn in. P19; TR210-211. At the hearing, Mr. Featherston acknowledged that he had fallen behind on grading the homework and that it looked like the Student was not turning in his homework based on the exhibit he was shown (P16). However, because he was confident that the Student was showing him the homework according to the system they had developed, he believed the Student received appropriate credit. TR661 & 663-664. Mr. Parent did not speak with Mr. Featherston about his grading methodology for the class. TR240-241.

234. Mr. Parent also believed that Mr. Featherston was reducing the complexity of assignments, pointing to a March 24, 2025, email exchange between Mr. Parent and Mr. Featherston (P20). TR211. At the hearing, Mr. Featherston explained that there might be two situations where he would consider reducing the complexity of a question for a student. The first situation was if he did not think it was fair to the student because the student may have missed instruction relating to the question. The other situation would be where reducing the complexity was an accommodation in the IEP. Mr. Featherston did not recall why he may have reduced the complexity of the question referred to in the email. TR667-668.

235. Principal Coffin explained that the District made significant changes to its grading policies during the Student's time at Beaver Lake. One example was that teachers no longer assigned a zero to students, even for missing assignments, which has caused some confusion with Parents concerned about grade inflation. TR305-306. Ms. Coffin emphasized that Beaver Lake did not inflate a Student's grades for any purpose. TR305. She believed that the Student's grades accurately reflected what he was learning at Beaver Lake because he could not receive those types of grades and not have been doing well on his tests and assessments. TR320.

236. Ms. Coffin did not believe the Student needed to be in any form of private placement. Her opinion was that Beaver Lake was a great place for him. TR263.

237. Ms. Chamberlain shared at the hearing that the Student was a positive person and a joy to have in class. She saw the Student grow academically and socially with his peers and teachers over the course of his three years at Beaver Lake. TR336.

238. On July 16, 2025, Ms. Raphael conducted a one-hour observation of the Student at Brightmont. TR609. She prepared an addendum to her original report on July 25, 2025. She noted that the Student stayed engaged, interacted appropriately with verbal prompts, initiated communication, asked questions and responded to

feedback. He also completed assigned tasks with minimal redirection. Ms. Raphael again suggested that an FBA should be considered. P18, pp14-15.

### **David Breiger, Ph.D. Testimony**

239. Dr. Breiger was retained by the District to testify concerning the interpretation and understanding of the information obtained from the Student's standardized testing, psychological evaluations and assessments. TR492. He was a clinical professor at the University at the University of Washington's Department of Psychiatry and Behavioral Sciences from 2016 to May 2023 and served as the Director of the Neuropsychological Consultation Service<sup>30</sup> at Seattle Children's from 1992 to May 2023. D46; TR487-488.

240. As part of the Neuropsychological Service at Children's, Dr. Breiger conducted IEEs for school-age children. TR488 & 491. He estimated that 95% of his clinical work involved working with families and advocating for appropriate interventions, which included attending IEP meetings. TR519. Dr. Breiger also supervised and trained psychology residents at both the University of Washington and Children's Hospital, which included training in the completion and use of neuropsychological evaluations. He also supervised and provided practicum experience to psychiatry trainees. TR490. Since May 2023, Dr. Breiger has been providing private consultation services. TR542-5430.

241. Dr. Breiger reviewed the Student's evaluations and assessments, including the IEE and the October 2024 reevaluation. TR491-493; 509. He did not meet with or directly assess the Student. TR491.

242. Dr. Breiger emphasized that the Student did not have an intellectual disability and that his cognitive test results in the average to above average cognitive range indicated that he had the skills to do age-appropriate academic work. TR497, 513 & 521.

243. Dr. Breiger explained that the Comprehension of Instructions subtest on the NEPSY-II test required the student to follow a series of oral instructions in the correct sequence by pointing to shapes and colors on a laminated page. TR498-500. The assessment did not require an oral response. TR521-522. Dr. Breiger noted that the Student's score on this measure from the IEE was well below average but cautioned that the score did not mean anything in isolation without interpreting it in a larger context and in relationship to other measures. TR498-500. Dr. Breiger noted that this

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<sup>30</sup> The Neuropsychological Consultation Service provided neuropsychological evaluations and recommendations to patients who were referred from within the hospital. A neuropsychological evaluation focuses on a variety of cognitive and motor functions that may be impacted by injuries or developmental disorders to determine possible connections between brain function and behavior. TR489.

held true for the scores reported on the IEE for the Coding and Symbol Search subtests on the Processing Speed Index of the WISC-V. TR505-506. He also emphasized that there was no formula that had been validated indicating any specific relationship between a performance on a test measure and the number of minutes of special education intervention that may be required. TR507-508.

244. Dr. Breiger compared the Student's poor results on the Comprehension of Instructions subtest from the IEE with his scores on the CELF-5, which SLP Laney Goldsmith administered in September 2024 as part of her communication evaluation. He noted that the Student scored well within the average, age-appropriate range in the areas that were evaluated. He explained that all the subtests of the CELF-5 required that the Student understand oral instructions. In his opinion, the Student's scores on the CELF-5 indicated that the Student was able to attend, understand, recall briefly, and keep track of information that was presented to him. TR510-511.

245. Dr. Breiger commented that, while the variability of the Student's sustained attention was an issue in a classroom setting, the Student's records documented improvement on a number of different activities and that it appeared the Student was making progress, which was reflected in his grades. TR517 & 525. Dr. Breiger also opined that that Student's standardized test results indicated that he was learning. TR536-537.

246. In Dr. Breiger's opinion, it is not necessary for the Student to be in a one-on-one educational setting to make educational progress but that he did need an IEP to be successful in the general education setting. TR517 & 539-540. Dr. Breiger based his opinion on the totality of his review of the materials, which included the IEE, the Student's performance on the measures and assessments, and information provided by a variety of informants concerning the Student. TR492 & 540–541.

## **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 as to most issues 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). Because the Parents seek reimbursement for a unilateral parental placement, the Parents bear the burden of proof as to the appropriateness of such placement. RCW 28A.155.260(2).

### 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 (IEP) developed under these procedures is reasonably calculated to enable the child to receive educational benefits. “If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.” *Rowley*, 458 U.S. at 206-07.

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

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

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

(III) caused a deprivation of educational benefits.

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

6. “To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The determination as to whether an IEP is reasonably calculated to offer

a student FAPE is a fact-specific inquiry. As the U.S. Supreme Court has made clear, “[a] focus on the particular child is at the core of the IDEA,” and an IEP must meet a child’s unique needs. *Id.* at 400. The “essential function of an IEP is to set out a plan for pursuing academic and functional advancement.” *Id.* at 399. Accordingly, an IEP team is charged with developing a comprehensive plan that is “tailored to the unique needs of a particular child.” *Id.* at 401. Additionally, the Student’s “educational program must be appropriately ambitious in light of his circumstances . . . .” *Id.* at 402.

7. In reviewing an IEP, “the question is whether the IEP is *reasonable*, not whether the court regards it as ideal.” *Andrew F.* at 399 (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.*

Whether the District failed to provide adequate service minutes as recommended in the June 2023 Independent Educational Evaluation (IEE) in the IEPs dated November 13, 2023, and November 4, 2024.

8. The Parents argue that the November 2023 and November 2024 IEPs were inappropriate because they did not contain an adequate amount of service minutes. The Parents do not take issue with the appropriateness of the IEPs other than with regard to the service minutes provided and the Student’s placement in the least restrictive environment.

### **The November 2023 IEP**

9. The Parents assert that the November 2023 IEP was inappropriate because it failed to include the amount of service minutes recommended in Dr. Dunbar-Mayer’s IEE.

10. A student is not denied a FAPE simply because the district’s proposed educational plan provides less educational benefit than what a student’s parent might prefer. See *K.M. ex rel. Bright v. Tustin Unified Sch. Dist.*, [725 F.3d 1088](#), 1095-96 (9th Cir. 2013) (“The IDEA does not require states to provide disabled children with ‘a potential-maximizing education.’”) (*quoting Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 102 S. Ct. 3034 (1982)). Instead, the test for whether an IEP is substantively appropriate under the IDEA is whether the “individualized educational program developed through the Act’s procedures [is] reasonably calculated to enable the child to receive educational benefits.” *J.L. v. Mercer Island Sch. Dist.*, [592 F.3d 938](#), 947 (9th Cir. 2010) (*quoting Rowley*, 458 U.S. at 206-07); see also *R.P. ex rel. C.P. v. Prescott Unified School Dist.*, 631 F.3d 1117, 1122 (9th Cir. 2011).

11. In the present case, the Student was in the first trimester of the seventh grade when the team developed the November 2023 IEP. At that time, his reading fluency was at 93% accuracy with 104 correct words per minute (cwpm) with sixth-grade texts and his accuracy on reading comprehension was 60% with fourth-grade texts. The IEP team increased the reading fluency goal to 95% accuracy and 130 cwpm at the seventh-grade level and the goal for reading comprehension to 80% accuracy on fifth-grade texts. To help the Student achieve these goals, the IEP provided 100 minutes per week of SDI in reading to be delivered in a general education setting across all three trimesters. In Trimester 2, the IEP added 120 minutes per week of SDI in reading in a special education setting (for a total of 220 minutes). Although the Parents may have wanted more service minutes for the Student to support his reading, based on his current level of functioning, the amount of SDI minutes for the Student's reading was appropriate.

12. The IEP provided the same number of service minutes (100/week), with the same increase in intensity for Trimester 2 (220/week total), for the Student's SDI in written language. In addition, the IEP provided 120 minutes per week of speech language pathology services as a related service to support the Student's new writing goal. At that time, the Student was able to achieve a rubric score of 14 out of 20 when asked to write a paragraph in response to a prompt. The new goal increased the rubric score to 16 out of 20. Here too, the amount of IEP service minutes prescribed for the Student's written language goal was appropriate. It is noted that, if the 30 minutes per week of related SLP services for the Student's written language are included, the total amount of weekly minutes devoted to the Student's written language goal in the second trimester (250/week) exceeded the amount recommended in the IEE (240/week).

13. The Student's baseline in math at the time of the development of the November 2023 IEP was 75% accuracy on sixth-grade level assessments. The IEP set a continuing goal to increase the Student's math skills to the seventh-grade level (80% on seventh-grade level assessments). It is concluded that the 100 minutes per week of SDI to support this goal, while less than what the Parents may have wanted, was also reasonably calculated to enable the Student to make educational progress.

14. The IEE did not include a recommended amount of SDI minutes for behavior or social/emotional skills. The Student's baseline on the behavior goal was 50% success on task initiation and completion and the new goal was to increase that to 80%. For his social/emotional goal relating to peer interactions, the Student was successfully engaging with peers on 1 out of 3 attempts and the goal was increased to 2 out of 3. As the social/emotional goal relating to coping strategies was only added in mid-September, the Student's current level of functioning was based on only one data point

reflecting a 90% success rate. The goal was to maintain an 80% success rate over three data points. The IEP provided 120 minutes per week of SDI for behavior and 120 minutes per week for social/emotional skills. The Student also received 120 minutes per week in SLP related services to assist in achieving his social emotional goals. Based on the Student's level of functioning at the time the IEP was developed, it is concluded that the amount of minutes assigned for each of these areas was reasonably tailored to the Student's unique needs to allow him to continue to make appropriate progress.

15. In sum, the District offered an appropriate amount of service minutes in each of the Student's areas of need in the November 2023 IEP.

### **November 2024 IEP**

16. The Parents also argue that the IEP developed in November 2024 did not provide adequate service minutes. At that time, the Student was in the eighth grade.

17. At the time the November 2024 IEP was developed, the Student's math skills had improved to the point where he no longer needed special education services in that area. His current levels of functioning had also significantly improved such that the coping strategies goal was dropped, the goal for peer interactions was increased from a success rate of 70% to 80% and his behavior goal to independently initiate and complete tasks was increased from a target success rate of 85% to 90%. The IEP provided 100 hours/month of SDI for the Student's behavior needs. The IEP also provided 100 hours/month of SDI for Student's remaining social/emotional goal, with an additional 120 minutes of SLP support in this area. These amounts were reasonably calculated to enable to the Student to continue to make progress in these areas.

18. The Student had also progressed on his reading goals.<sup>31</sup> He was working with eighth-grade (at grade level) passages for his reading fluency and comprehension skills. He was able to achieve 98% accuracy with 102 cwpm on his fluency and 75% accuracy on his comprehension. The team set a new reading fluency goal of 95% accuracy and 130 cwpm and a new reading comprehension goal of 80% accuracy. The IEP's provision of a total amount of SDI of 470 minutes per month to support the Student's reading was appropriate given his current achievement levels.

19. The Student's written language skills had also improved. He was able to achieve a rubric score of 6 out of 8 on a three-paragraph essay. The IEP provided a total amount of SDI minutes of 470/month to support the Student in reaching his new

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<sup>31</sup> The Student's overall diagnostic scores on his iReady reading assessments also showed growth. The Student improved from the fifth-grade level in May 2023 to the seventh-grade level by September 2024.

goal of achieving a rubric score of 8 out of 8. Here too, it is concluded that the amount of SDI service minutes devoted to this area of need was reasonably tailored to enable the Student to make educational progress based on his current level of functioning.

20. It is concluded that the Student's November 2024 IEP provided an appropriate amount of SDI minutes at the time it was developed.

Whether the District failed to offer an IEP to the Student in and after October 2023 that included educational placement in the Student's least restrictive environment.

21. The Parents argue that the District violated the IDEA and denied the Student FAPE by failing to place the Student in a 1:1 instructional setting for his core academic classes. They assert that this placement is the Student's least restrictive environment (LRE) because, without a 1:1 learning environment, he was unable to make progress in a general education setting, even with accommodations.

22. School districts must ensure that special education students are served in the "least restrictive environment." WAC 392-172A-02050. 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." *Id.*

23. WAC 392-17A-02060(1) and (2) require that an IEP team, including the parents, make a decision about the educational placement of a student after formulating the IEP and based on the following criteria:

(a) the Student's IEP;

(b) the least restrictive environment 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.

See 34 CFR 300.116(b)(2).

24. As the U.S. Court of Appeals for the Ninth Circuit has observed, mainstreaming “is a policy which must be balanced with the primary objective of providing handicapped children with an ‘appropriate’ education.” *Wilson v. Marana Unified Sch. Dist.*, 735 F.2d 1178, 1183 (9th Cir. 1984). Notably, “[w]hile every effort is to be made to place a student in the least restrictive environment, it must be the least restrictive environment which also meets the child’s IEP goals.” *City of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1468 (9th Cir. 1996). The inquiry into what constitutes a student’s LRE is individualized and fact-specific, and the IDEA’s preference for educating disabled children alongside nondisabled children is not “an absolute commandment.” *Poolaw v. Bishop*, 67 F.3d 830, 836 (9th Cir. 1995).

25. The following factors must be weighed in determining whether a school district has complied with the least restrictive environment requirement:

The educational benefits of placement full-time in a regular class;

1. The non-academic benefits of such placement;
2. The effect [the student] had on the teacher and children in the regular class; and
3. The costs of mainstreaming [the student].

*Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994).

26. When analyzing the issue of LRE, the first inquiry is whether the educational placement offered by the District is appropriate, not whether the Parent’s preferred placement is appropriate. If the placement offered by the District is appropriate and is the Student’s LRE, the issue of appropriateness of the placement preferred by the Parent need not be reached. As explained in *D.M. V. Seattle Sch. Dist.*, 2016 U.S. Dist. LEXIS 122519 (W.D. Wash. 2016):

The Court must, however, first consider whether [the district] provided an appropriate educational placement for [the student]. As stated by the Ninth Circuit:

Our de novo review ... must focus primarily on the District's proposed placement, not on the alternative that the family preferred. Even if [the Parents' preference was better for the student] than the District's proposed placement, that would not necessarily mean that the placement was inappropriate. We must uphold the

appropriateness of the District's placement if it was reasonably calculated to provide [the student] with educational benefits.

*Gregory K. v Longview Sch. Dist*, 811 F.2d 1307, 1314 (9<sup>th</sup> Cir. 1987).

27. The November 2023 IEP placed the Student in a general education setting 84% of the time and in special education for the remainder of the school day.<sup>32</sup> The IEP also specified that the SLP related services to support the Student's writing goal would be delivered in a special education setting. The November 2024 IEP maintained the same placement of 84% in a general education setting and specified that SLP related services would be provided in a special education setting.

28. In reviewing the factors set forth in *Rachel H.*, it is concluded that the District's placement decision under both IEPs was the Student's LRE. With respect to the second factor, both the District and the Parents acknowledge the non-educational benefits of placing the Student in a regular class. Indeed, the reason the Parents decided to only place the Student at Brightmont on a hybrid schedule was in recognition of these benefits, which include the opportunity to take general education classes such as health and art and the chance to have lunch with typically developing peers and interact with them between classes. The third factor also weighs in favor of the District's placement, as the Student was universally liked and a joy to have in class. No evidence was presented on the fourth factor but there is no basis to conclude that the cost of the mainstreaming the Student was prohibitive.

29. Where the parties disagree is the first factor, the educational benefits of placement in a regular class. The Parents firmly believe that the Student's deficits with processing speed and his difficulty following instructions in a large classroom environment required that receive his instruction in a 1:1 setting in order to learn. The evidence does not support this position.

30. When the placement decision was made in November 2023, Dr. Dunbar-Mayer was the only person to recommend 1:1 instruction and he limited his suggestion to the area of written expression. Dr. Dunbar-Mayer's IEE report does not provide any detailed explanation for this recommendation, and he did not testify at the hearing. No other evidence was presented to indicate that, at that time, the Student needed to be placed in a 1:1 instructional setting to make educational progress. Rather, the October 2023 reevaluation results, together with input from the Parents, the Student's teachers and the speech language pathologist, showed that the Student was capable of making

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<sup>32</sup> This percentage changed to 70% during Trimester 2 and 98% for Trimester 3.

educational progress in a general education setting with the accommodations and supports in the IEP. It is concluded that the Student's placement, as set forth in November 2023 IEP, was appropriate and the LRE.

31. The continued placement of the Student in a general education setting for 84% of the school day under the November 2024 IEP was also appropriate. As discussed above, at time the November 2024 IEP was developed, the Student had made significant progress on his IEP goals. His grades and teacher reports provide further support. The Student earned As and Bs in all his seventh-grade classes and was achieving scores of 80% - 100% in March 2025, when he stopped attending Beaver Lake. His math and ELA teachers also reported academic growth during their testimony at the hearing. Likewise, SLP Laney Goldsmith did not report any concerns about the Student's rate of progress on the skills she was supporting. Between the seventh and eighth grade, the Student had also shown growth with respect to his peer interactions. In addition, the results of the District's comprehensive reevaluation in October 2024, which was undertaken to determine the proper placement for the Student, also demonstrated that the Student had progressed academically and did not require a more restrictive environment. In sum, the IEP team did not identify any significant data or evidence that indicated a need for the Student to be placed in a more restrictive 1:1 instructional environment. The IEP team considered the Student's LRE to be his setting at Beaver Lake. This conclusion is also supported by the expert testimony of Dr. Breiger, who opined that, while the Student needed to be on an IEP with accommodations, it was not necessary for him to be in a 1:1 instructional setting to make educational progress.

32. While acknowledging that the Student had made progress and had achieved passing grades at Beaver Lake, the Parents argue that this was only made possible due to Ms. Parent's tutoring efforts. This extra school support was undoubtedly helpful to the Student. However, it would not be reasonable to attribute all the Student's progress to Ms. Parent and completely discount the efforts made by the school team. It is concluded that, while the instruction provided by the school and the efforts at home by Ms. Parent both contributed to the Student's academic progress and success, the District has shown by a preponderance of the evidence that its efforts were sufficient to enable the Student to make educational progress and that the Student's placement in both the November 2023 and November 2024 IEPs was his LRE.

33. The Parents also argue that the Student's grades did not accurately reflect his progress. This is primarily based on Mr. Parent's review of a sampling of the Student's homework assignments and several email exchanges with the Student's math teacher in the Trimester 2 of eighth grade. Mr. Parent did not talk to the teachers about their grading methodology and he is not a certificated teacher. While Mr. Parent's concerns

are not taken lightly, the evidence does not support the conclusion that the Student's grades were artificially inflated and, as such, that they cannot be used as a measure of academic progress or learning.

34. It is noted that the Parents' education consultant was supportive of their belief, and believed herself, that a 1:1 educational environment would be beneficial for the Student and that the services Brightmont aligned with his needs. However, whether a 1:1 setting might be better, or the best arrangement, for the Student is not the question. Indeed, it would be hard to argue that individualized instruction would not provide better access to educational material. The question is whether the Student can access his education "satisfactorily" in a general education setting, with accommodations and supports. See *D.R. V. Redondo Beach Unified Sch. Dist.*, 56 F.4<sup>th</sup> 636, 644. (9<sup>th</sup> Cir. 2022). Ms. Raphael acknowledged that the Beaver Lake teachers were implementing great supports. The evidence of the Student's progress, as noted above, belies the conclusion that the Student had to have 1:1 instruction to make satisfactory educational progress. It is also important for the Student to be in a learning environment where he is with his peers because of his continuing social communication challenges.

35. In sum, based on the totality of the evidence, it is concluded that the November 2023 and November 2024 IEPs proposed by the District placing the Student in public school programming at Beaver Lake with 84% of his time spent in general education were appropriate and offered the Student FAPE in the LRE. The District has proved by a preponderance of the evidence that the IEPs placed the Student in his LRE.

Whether the District improperly refused to conduct a Functional Behavioral Assessment (FBA) responsive to the March 2025 request.

36. A functional behavioral assessment "is one type of behavioral intervention or strategy that helps identify causative factors and objectionable behaviors." *J.L. v. Manteca Unified Sch. Dist.*, 2016 U.S. Dist. LEXIS 77441, \*10 (E.D. Cal. June 14, 2016). The IDEA only requires an FBA when a child is removed from his current placement due to problem behaviors. *Butte Sch. Dist. No. 1 v. C.S.*, 817 F. App'x 321, 326 (9<sup>th</sup> Cir. 2020) (unpublished); 20 U.S.C. § 1415(k)(1)(D)(ii).

37. Following Ms. Raphael's recommendation, the Parents requested an FBA in March 2025. The Parents argue that the District's decision to decline their request for an FBA violated the IDEA and denied the Student FAPE.

38. The District was not required to conduct an FBA because the Student did not present problem behaviors. The District had completed its October 2024 reevaluation

five months earlier and, based on that evaluation, Ms. Mechler had recommended continued SDI in behavior to support the Student's task initiation and completion. These were the areas that the Parents wanted addressed with an FBA. Although an FBA may have provided additional information, the District already had sufficient and detailed information relating to the Student's behavioral needs, for which the District was already providing SDI for task initiation and completion. Under these circumstances, the decision to decline the FBA was appropriate and did not violate the IDEA or deny the Student FAPE.

## **Jurisdiction**

39. The Parents contend for the first time in their post-hearing brief that the District failed to implement the Student's IEPs with fidelity. Parents' Brief, p37. This issue was not raised in the Complaint or included in the statement of issues for hearing.

40. A party may not raise issues during a due process hearing that were not raised in the complaint unless the other party agrees. WAC 392-172A-05100(3); 20 U.S.C. § 1415(f)(3)(B). "Administrative and judicial review in IDEA cases is specifically limited to the issues raised in the due process complaint, unless the parties agree otherwise." *L.C. v. Issaquah Sch. Dist.*, 2019 U.S. Dist. LEXIS 77834 \*34-35 (W.D. Wash. May 8, 2019), *aff'd sub nom. Crofts v. Issaquah Sch. Dist. No. 411*, 2022 U.S. App. LEXIS 907 (9th Cir. 2022) (upholding ALJ's refusal to address claims raised for first time in post-hearing brief where Parents cited no evidence that parties agreed to expand scope of due process hearing). This is consistent with Washington administrative law requiring that a notice of hearing include a statement of the issues (RCW 34.05.434) and that prehearing orders identify all issues and provide an opportunity to object. WAC 10-80-130. An exception may apply when an issue was actually tried by the parties at an administrative hearing. *M.C. v. Antelope Valley Union High School Dist.*, 858 F.3d 1198, 1196 (9th Cir. 2017); *A.W. v. Tehachapi Unified Sch. Dist.*, 2019 U.S. Dist. LEXIS 37815 \*15-16, 19 (E.D. Cal. Mar. 7, 2019), *aff'd* 810 Fed. Appx. 588 (9th Cir. 2020).

41. The District did not agree to add any new issues to the issue statement and the Parents have not articulated why this issue should be considered despite not having been raised. No exception applies here because an issue related to implementation of the IEPs was not "actually tried" at the hearing.

42. The implementation issue set forth at page 37 of the Parents' brief is not considered.

**ORDER**

1. The District has shown by a preponderance of the evidence that the November 2023 and November 2024 IEPs were appropriate and placed the Student in his least restrictive environment. The District has also shown by a preponderance of the evidence that declining the Parents' request for a Functional Behavioral Assessment was appropriate and did not violate the IDEA. Accordingly, the Parents are not entitled to any remedies.
2. The Parents' requested remedies are **DENIED**.

SERVED on the date of mailing.



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David LeMaster  
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](mailto: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 21, 2025, at Spokane Valley, Washington.

*Lan Le*

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cc: Administrative Resource Services, OSPI