

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matters of:

Ridgefield School District

Docket Nos. 04-2025-OSPI-02521
05-2025-OSPI-02563

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

Agency: Office of Superintendent of
Public Instruction
Program: Special Education
Cause Nos. 2025-SE-0056
2025-SE-0078

A due process hearing was held before Administrative Law Judge (ALJ) Jill H. Brown on February 23 through February 25, 2026, via videoconference. The Parents of the Student whose education is at issue¹ appeared and were represented by Alexander Hagel and Mickey Moritz, attorneys at law. The Ridgefield School District (District) was represented by Lynette Baisch, attorney at law. Also present for the District were Kalina Spasovska, attorney at law; Curtis McConnell, director of special education; Tiffany Gould, executive director of teaching and learning; and Jamie Heim, assistant director of special education services and early learning.

STATEMENT OF THE CASE

Procedural History

The Parents filed a Due Process Hearing Request (Parents' Complaint) with the Office of Administrative Hearings (OAH) on April 11, 2025. The Parents' Complaint was given Cause No. 2025-SE-0056 and assigned to ALJ Brown. At the time they filed their Complaint, the Parents were not represented by counsel. The District filed its Response to the Complaint on May 1, 2025. On May 8, 2025, attorneys Alexander Hagel and Mickey Moritz filed a Notice of Appearance on behalf of the Parents.

On May 13, 2025, ALJ Brown issued a prehearing order after a prehearing conference conducted on May 12, 2025. In the May 13 prehearing order, ALJ Brown scheduled the due process hearing to take place on August 14, 15 and 18, 2025.

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

On May 19, 2025, ALJ Brown issued a second prehearing order, outlining the issues and remedies to be addressed at the due process hearing.

Also on May 19, the District filed a Due Process Hearing Request (District's Complaint) with OAH. The District's Complaint was given Cause No. 2025-SE-0078 and assigned to ALJ Brown. On May 28, 2026, ALJ Brown issued a third prehearing order in which she granted the District's uncontested motion to consolidate Cause Nos. 2025-SE-0056 and 2025-SE-0078. The third prehearing order also set a briefing schedule for the Parents' motion to dismiss, the District's response, and the Parents' reply.

On July 24, 2025, ALJ Brown issued an order of continuance, rescheduling the due process hearing to November 4, through November 6, 2025.

On August 15, 2025, ALJ Brown issued an Order Denying Parents' Motions to Dismiss 2025-SE-0078 and Partial Judgment on the Pleadings.

On October 9, 2025, ALJ Brown issued an order of continuance in which she granted, over the District's objection, the Parents' motion to continue the Due Process Hearing and set hearing dates of February 23, through February 26, 2026.

On October 24, 2025, ALJ Brown issued an Order Granting Student's Motion for Leave to Amend Complaint, including an updated statement of issues.

ALJ Brown conducted the due process hearing on February 23, through February 26, 2026. ALJ Brown issued an order setting a due date for post-hearing briefs on February 26, 2026.

Due Date for Written Decision

At the request of the District, the ALJ extended the 45-day deadline for a written decision in this case to thirty (30) days after the record of the hearing closes. The record of the hearing closed on April 24, 2026, at 5:00 p.m., when the parties timely submitted post-hearing briefs. The due date for a written decision is May 24, 2026.

EVIDENCE RELIED UPON

Exhibits Admitted:²

District's Exhibits: D1–D74.

Parents' Exhibits: P1 (pp. 1–4); P2 (p. 9); P3–P4; P12–P14; P15 (pp. 8–11); P16–P17; P19–P21; P27 (pp. 1–7, 9–10); P28–P30.

Witnesses Heard:

Jill Neyenhouse, former District principal, current director of career pathways and community engagement

Kaelyn Straub, speech language pathologist

Laura Gutierrez, school psychologist

Sarah Bossert, occupational therapist

Merilee Schmidt, board certified behavior analyst

Anna Moskal, school counselor

Jamie Heim, assistant director of special education services and early learning

Tiffany Gould, executive director of teaching and learning

Dolcie Niemi, educational consultant

Chloe Carr, general education teacher

Dr. Lionel Enns, licensed clinical psychologist, board certified behavior analyst

Mother and Father of the Student

ISSUES

The issues for the due process hearing are:

1. Whether the District's most recent evaluation of the Student was appropriate;

² Citations to the exhibits of record are by party (P for the Parent; D for the District) and page number. For example, a citation to P6 p1, refers to page 1 of Parent's Exhibit 6. Citations to the transcript of record are to "T" followed by the page number. For example, a citation to T214, refers to page 214 of the transcript.

2. Whether the District violated the Individuals with Disabilities Education Act (IDEA) by failing to offer the Student a free appropriate public education (FAPE) as follows:
 - a. Failing to comply with WAC 392-172A-03015(3)(a) by failing to complete the Student's most recent special education reevaluation, dated 4/08/2025 within 35 school days of the district receiving written consent for the re-evaluation;
 - b. Failing to conduct a full and individual reevaluation in all areas of suspected disability, including the Student's significant mental health challenges (anxiety and depression) and their impact on educational access;
 - c. Incorrectly determining the Student was no longer eligible for special education and related services following the April 8, 2025 reevaluation despite the data showing continued need for such services;
 - d. Failing to provide timely and appropriate prior written notices (PWN) by:
 - i. Failing to provide PWN regarding the approval of a functional behavior assessment, a sensory evaluation, the proposed individualized education program (IEP) reevaluation, the change to a partial-day schedule, and the denial of the Parents' requested home instruction; and
 - ii. Failing to provide PWN in September 2024 and January 2025 that contained all of the required information, including documenting the Parents' request for a reevaluation due to their child's mental health struggles, and the Parents' proposed grade acceleration.
 - e. Failing to provide all general and special education services the Student is entitled to under his prior IEP between January 2025 and present; and
 - f. Failing to develop an appropriate Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP) despite evidence that Student's disability-related behavior was interfering with the Student's ability to access an education.
3. And, whether the Parents are entitled to their requested remedies:
 - a. Independent Educational Evaluation (IEE): Reimbursement to the Parents for the costs and miscellaneous expenses of procuring an IEE;

- b. IEP Eligibility Reconsideration: Convene a properly constituted eligibility team to reconsider Student's eligibility under IDEA, using updated evaluation data. The team must meaningfully consider the full impact of his emotional and mental health needs on his ability to access education and determine eligibility accordingly;
- c. Immediate In-Home Instructional Support: To ensure that Student receives appropriate instruction and support while transitioning back to school, the Parents request that the District immediately assign an in-home teacher. This instructor will:
 - i. Work with Student in the home setting to deliver direct instruction and establish a consistent, trusting relationship;
 - ii. Serve as a supportive ally to facilitate a gradual and successful transition back into the school environment; and
 - iii. Continue supporting Student at school in a dual capacity—as a one-on-one support person and instructional provider.
- d. Extended School Year (ESY) Services: The in-home instructional support and individualized educational services shall continue through the summer as ESY to prevent regression, support recovery from lost instruction, and promote a successful transition to full-time attendance in the upcoming school year;
- e. Compensatory Education: Provide compensatory services to make up for the loss of instructional time and support over the past three months. This should include individualized academic services, counseling, and access to alternative or supplementary learning environments;
- f. Corrective Actions for Procedural Violations:
 - i. Require the District to provide legally compliant PWN for all proposed and refused actions moving forward, and to retroactively issue PWN for actions previously taken without notice, including evaluations and changes in placement;
 - ii. Require Family Educational Rights and Privacy Act (FERPA) training for all relevant staff, including those involved in student support and counseling, due to a confirmed breach of confidentiality by the school counselor; and

- iii. Require training for District staff on proper evaluation procedures, parental participation, and IDEA-compliant eligibility determination processes.
- g. Equitable Relief for Advocacy Costs: Due to the District's failure to provide appropriate evaluations, notices, and access to FAPE, the Parents were compelled to obtain independent advocacy support to navigate the special education process. The Parents request reimbursement for reasonable out-of-pocket expenses related to these services. Alternatively, the Parents request additional direct educational and support services to the student in lieu of reimbursement.
- h. Fulfill IEP Support: The Parents request that a clear and documented plan be developed immediately to ensure Student receives compensatory speech/language pathologist (SLP) services to address the missed sessions. This plan should include the option for services to be provided at home, via teletherapy, or in another flexible format that ensures consistency, particularly when school-based delivery is not feasible. The plan should also include timelines, progress monitoring, and a point of contact for accountability;
- i. Reimbursement for documented and reasonable educational and related expenses incurred by the Parents while the Student was unable to attend school; and
- j. Other equitable remedies, as appropriate.

FINDINGS OF FACTS

Some of the evidence presented was hearsay, which is a statement made outside of the hearing used to prove the truth of what is in the statement. In administrative hearings, hearsay evidence is admissible if, in the judgment of the presiding officer, "it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs."³ An ALJ may not base a finding of fact exclusively on hearsay evidence unless the ALJ determines that doing so "would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence."⁴ To the extent any findings of fact are based on hearsay, it is determined

³ RCW 34.05.452(1).

⁴ RCW 34.05.461(4).

that such findings did not unduly abridge the parties' opportunity to confront witnesses and rebut evidence.

Background

1. The Student is nine years old and has diagnoses of attention deficit hyperactivity disorder (ADHD), generalized anxiety disorder, sensory integration dysfunction, and articulation deficiency.⁵ During the 2022-2023, 2023-2024 and 2024-2025 school years, the Student attended kindergarten, first, and second grade at South Ridge Elementary School in the District.

2. The Student's Mother recalls that the Student did not enjoy kindergarten. He was overwhelmed and had trouble connecting with other students. He was developmentally beyond a typical five-year-old, and his vocabulary was advanced for his age.⁶

3. The Student's first IEP was implemented during kindergarten, to address communication issues. The Mother does not recall if she raised concerns with the IEP team about the Student's dislike of kindergarten.⁷ For the Student's IEP in first grade, the team put supports in place to address the Student's anxiety.⁸

4. In kindergarten and first grade, the Student participated in three general education intervention small groups with school counselor Anna Moskal.^{9,10} Ms. Moskal collected data to monitor the Student's progress in the small groups.¹¹ In the two small groups that took place during kindergarten, Ms. Moskal focused on anxiety management. The first group met six times, once per week, for 30 minutes. The second group met for six weeks, four days per week for 30 minutes. The small group in first grade addressed self-regulation interception and met for eight weeks.¹² Ms. Moskal found that the Student was responsive over time to the general education interventions practiced in the small groups.¹³

⁵ D74 p5.

⁶ T408-409.

⁷ T410.

⁸ T410.

⁹ Ms. Moskal has a master's degree in education with school counseling. She is certified to work as a school counselor in Washington state public schools. Ms. Moskal has served as a school counselor in the District for five years. Prior to joining the District, she was a counselor in a different school district for one year. T265.

¹⁰ D1 p6-8; T265-267.

¹¹ D1 p6-8; T266.

¹² D1 p6-8; T266.

¹³ T267.

5. In the small groups, particularly in kindergarten, Ms. Moskal observed the Student “shutting down,” or not communicating with others when asked a question.¹⁴ That behavior lessened during the first grade small group, when he was more likely to engage in discussions and activities.¹⁵

6. During the small groups, Ms. Moskal did not witness the Student picking his lips or fingernails, acting frustrated, crying, displaying anger, appearing dysregulated, or shielding his face.¹⁶ She observed him avoiding eye contact and having difficulty interaction with his peers during the kindergarten small groups; however, this improved during first grade.¹⁷ Ms. Moskal found that avoiding eye contact and having difficulty interaction with peers at times prevented the Student from engaging in the work group.¹⁸

7. The Student experienced anxiety during kindergarten and first grade. His kindergarten and first grade teachers shared concerns with Ms. Moskal about the Student’s anxiety.¹⁹ It was apparent to staff when the Student experienced anxiety at school.²⁰ The Student’s demonstrations of anxiety in first grade did not interfere with him engaging, learning, and participating in the general education curriculum.²¹

8. During kindergarten, first, and second grades, Ms. Moskal worked with the Student in the general education classroom. She observed that consistently through those grades, the Student was reluctant to raise his hand to answer questions.²² Ms. Moskal did not find that the failure to raise his hand prevented the Student from participating in her lessons.²³

9. In June 2023, the District found the Student eligible for the Highly Capable Program (HiCap), which serves students who demonstrate exceptional abilities and provides them with additional support and opportunities.²⁴ The Student was eligible for HiCap services in English language arts (ELA) and math.²⁵

¹⁴ T267.

¹⁵ T267-268.

¹⁶ T268-269.

¹⁷ T269-270.

¹⁸ T270.

¹⁹ T272.

²⁰ T272.

²¹ T273

²² T270-271.

²³ T271.

²⁴ D8 pp2-4; P4.

²⁵ P4 p2.

10. In an email dated September 9, 2023, the Student's Mother²⁶ informed Ms. Moskal that the Student told her that "sometimes I wish I wasn't alive anymore."²⁷ The Mother requested advice/assistance and Ms. Moskal replied on September 11, 2023, providing a list of counselors in the area and suggesting some relevant books.²⁸ In a follow-up email on September 13, 2023, Ms. Moskal reported that the Student's teacher was ready to support the Student in the classroom. Ms. Moskal suggested that she could invite the Student, along with three other students, to her office for lunch, and could check-in with the Student during the day. She also suggested that the Mother encourage the Student to explore his internal state if he responds to a questions with "ok" or "I don't know."²⁹

11. On October 31, 2023, the Student's first grade teacher, Rebecca Hickok, emailed the Student's Mother and let her know the Student was "worn out."³⁰ Ms. Hickok reported that the Student was not crying, but he needed a break before class. The Student declined the "peaceful spot," and Ms. Hickok asked the counselor to take the Student for a quiet walk.³¹

2024-2025 School Year

12. At the beginning of the 2024-2025 school year, the Student's second grade year, the Student had an IEP with a start date of September 26, 2024 (2024 IEP).³² At an IEP team meeting on September 26, 2024, the team discussed the Student's communication needs.³³ The Parents did not raise concerns about the Student's anxiety at the meeting or request any changes to the Student's IEP.³⁴ The 2024 IEP provided the Student with multiple accommodations, specially designed instruction (SDI) in communication with an SLP for thirty minutes, three times per month, and placement of 80%-100% in general education.³⁵

²⁶ The Student's Mother has a bachelor's degree in education and a certification in English as a second language. She taught in Oregon state public schools, grades 9 through 12, from approximately 2006 through 2012. T405-406.

²⁷ P1 p1.

²⁸ P1 p1.

²⁹ P1 p4.

³⁰ P3 p2.

³¹ P3 p1.

³² D7 p2.

³³ D7 p3; T108-109.

³⁴ T108-109; T290-291.

³⁵ D7 p7, pp10-11.

13. By PWN dated September 26, 2024, the IEP team proposed continuing the Student's IEP.³⁶

14. The SLP provided the Student with the communication services required under the IEP while the Student attended school.³⁷

15. Two "i-Ready"³⁸ assessments performed in 2024 show the Student scored 440 and 460 out of 520 in math, which placed him in the 96th and 98th percentiles.³⁹ He scored 495 and 537 out of 570 in reading, placing him at the 78th and 87th percentiles.⁴⁰ Overall, the Student scored at grade level (second grade) in both math and reading.⁴¹

16. As Student progressed in his second grade year, his Parents saw him becoming more anxious about school. When he reached winter break, the Student's anxiety relaxed. After returning to school in January 2025, the Parents observed the Student's anxiety continue to increase. The anxiety decreased somewhat over spring break, but the Parents found it difficult to get the Student through the rest of the year because of the level of his anxiety.⁴² The Mother believed the Student was getting overwhelmed in his classroom, but she did not know if the Student was aware he was getting overwhelmed.⁴³

17. The Student's Mother noticed signs of the Student's anxiety when he would come home from school in the fall of 2024.⁴⁴ The Student would cry and throw his school bag; he expressed doubt that he was bright and he suspected that he was guessing the correct answers; he worried it would all stop and he would no longer know anything; and he worried about fitting in because he did not have any friends.⁴⁵

18. On a date not shown in the record, but in or around September 2024, the Parents requested that the District consider placing the Student in a third-grade math class.⁴⁶ In an email dated September 27, 2024, on behalf of the District, the

³⁶ D7 p13.

³⁷ T139.

³⁸ "i-Ready" is an online learning program focused on reading and math.

³⁹ D9 p1.

⁴⁰ D9 p3.

⁴¹ D9; D16 pp18-23.

⁴² T414-415.

⁴³ T418.

⁴⁴ T425.

⁴⁵ T425.

⁴⁶ D8 p3.

Student's second grade general education teacher, Mia Orloff,⁴⁷ declined the Parents' request for third-grade math advancement.⁴⁸ Ms. Orloff noted that the District wanted "to prioritize providing students with opportunities to deepen their understanding of grade-level standards before moving on to new material" and that her "data and experience suggests that, for most students, extending and enriching their current grade-level experience leads to better long-term outcomes."⁴⁹ Based on the "i-Ready" assessments and other assessments she had seen, Ms. Orloff did not recommend that the Student be accelerated to third-grade math.⁵⁰

19. Ms. Orloff collaborated with colleagues to ensure that the Student had enrichment opportunities.⁵¹ Starting in early October 2024, the Student was in the WIN (What I Need) program, which involved the Student participating in an enrichment group with other HiCap students for four days per week in 30-minute sessions.⁵² During WIN class, the students worked on project-based learning. For example, the instructor would provide a real world application into the classroom and students would interview for a job, perform their assigned jobs, create a product, and present the product.⁵³ The curriculum in the WIN class was focused on high-order thinking, extending the curriculum in the second grade classroom.⁵⁴

20. Chloe Carr⁵⁵ worked with the Student in the WIN classroom in second grade.⁵⁶ In her pre-assessment of the Student at the start of his involvement in WIN, Ms. Carr determined his performance was average in comparison to his peers.⁵⁷ During the WIN classes, Ms. Carr found the Student was engaged, he answered questions when asked, did not require prompting, engaged with his peers, and did not complete his work earlier than his peers.⁵⁸ Ms. Carr did not witness the Student exhibiting anxiety

⁴⁷ Ms. Orloff has a master's degree in elementary education and holds a national board certification in early middle childhood literacy. She is certified to work as a teacher in Washington state. She has worked in education for over nine years, working in two other districts before joining the District two years ago as a second-grade teacher. D16 pp6-7.

⁴⁸ D8.

⁴⁹ D8 p3.

⁵⁰ D16 p12.

⁵¹ D16 p13.

⁵² D16 pp13-14; D17.

⁵³ D16 p14.

⁵⁴ T447.

⁵⁵ Ms. Carr has a bachelor's degree in recreation administration and outdoor leadership, and a master's degree in teaching. She is certified to teach K-8 in Washington public schools. Ms. Carr has taught in the District for four years and is currently a second-grade teacher. T445.

⁵⁶ T445.

⁵⁷ T447.

⁵⁸ T447-448.

during the WIN classes, appearing dysregulated, or lacking coping skills. His level of participation in the WIN classes did not change during his attendance.⁵⁹

21. The Student worked on third-grade math during the WIN classes.⁶⁰

22. In second-grade general education classes, Ms. Orloff offered “higher-level” work through the Wit & Wisdom curriculum, which provides students with opportunities to expand their vocabulary and perform writing activities.⁶¹ She also offered a book club to “higher” readers.⁶² The Student participated in book club with three other boys. The Student seemed excited to discuss the book during book club and to collaborate with his peers.⁶³

23. Ms. Orloff also offered the Student extra activities in math. Ms. Orloff collaborated with colleagues to create math materials for the Student and she bought him some math workbooks to work in when he finished other classwork.⁶⁴

24. To support students with anxiety in her classroom, Ms. Orloff offers a “calming corner” that contains fidgets and books about emotions. Also, a counselor comes in to class regularly to talk about social, emotional learning. The classroom also has access to a therapy dog.⁶⁵

25. In the fall of 2024, Ms. Orloff did not have concerns about the Student’s academic performance or about the Student’s interactions with his second-grade peers.⁶⁶ Ms. Orloff observed the Student appearing anxious if he did not finish in first place when playing a game in class, noting, “If he didn’t finish first, I could see his face get really red and he looked visibly frustrated.”⁶⁷ The Student’s anxiety during games did not prevent him from participating in other classroom activities. Ms. Orloff saw that if the Student was upset by a game, he would move on from it quickly after transitioning to a new activity.⁶⁸ Ms. Orloff did not see other signs of anxiety exhibited by the Student at school.⁶⁹ During class, the Student did not appear disengaged or withdrawn, he did not have trouble concentrating, and Ms. Orloff did not witness him

⁵⁹ T449-450.

⁶⁰ T451.

⁶¹ D16 pp14-15.

⁶² D16 p14.

⁶³ D16 pp 25-26.

⁶⁴ D16 p16.

⁶⁵ D16 pp31-32.

⁶⁶ D16 pp23-24.

⁶⁷ D16 pp26-27.

⁶⁸ D16 pp 27-28.

⁶⁹ D16 p27, p28.

biting his nails or picking his lip at concerning levels.⁷⁰ Ms. Orloff did not observe the Student appearing dysregulated, hyperactive, uncomfortable interacting with her; shielding his face; avoiding eye contact or maintaining eye contact at a concerning level; or stuttering beyond what would be expected based on the communication issues identified in his IEP.⁷¹

26. The Student had one bathroom accident in the fall of 2024. The Student did not share his accident with Ms. Orloff, but he told his Parents after returning home. A bathroom accident is not unusual for a second grader and failing to tell a teacher is also not unusual, as the student would likely feel embarrassed.⁷²

27. If the Student was experiencing anxiety in a way that was not visible to Ms. Orloff, she did not observe signs that it affected his ability to participate in class, interact with peers, or engage in learning at a typical second-grade level.⁷³

28. In October 2024, Jamie Heim,⁷⁴ at the time a teacher on special assignment (TOSA)⁷⁵ in HiCap and special education programs, observed the Student in the classroom.⁷⁶ Ms. Heim observed the Student in the classroom to see how things were going for him and make recommendations for enrichment and extension opportunities.⁷⁷ Ms. Heim did not observe the Student picking his lips, hiding his face, or exhibit any other indication that he was in distress. Ms. Heim did not observe anything that raised concerns about the Student's ability to participate in, and benefit from, instruction in his second grade classroom.⁷⁸

⁷⁰ D16 pp28-29.

⁷¹ D16 pp29-30.

⁷² D16 pp30-31; T46.

⁷³ D16 p33.

⁷⁴ Ms. Heim has an undergraduate degree in secondary education, a master's degree in special education, and a principal certification. She has worked in the District for approximately eight years. This year, Ms. Heim began in the role of assistant director of special education services and early learning. Prior to her current role, she worked as a special education resource co-teacher, and as a TOSA in HiCap and special education programs. Before working for the District, Ms. Heim worked as an elementary resource special education teacher for grades K-5, and as an autism specialist with InterMountain Education Service District for seven years. T288-289.

⁷⁵ A TOSA provides professional development for the HiCap program and special education program within the general education and special education settings. T303.

⁷⁶ T291.

⁷⁷ T306.

⁷⁸ T292.

29. In October 2024, the Parents requested that the District consider advancing the Student to the third grade.⁷⁹

30. On or about October 16, 2024, Ms. Orloff and Ms. Heim met with the Parents to discuss the Student's HiCap plan, classroom performance, classroom enrichment, and WIN.⁸⁰ Those participants met again on October 25, 2024, along with principal Jill Neyenhouse⁸¹ and assistant principal Tawny Malone.⁸² At the October 25, 2024 meeting, neither the Parents nor any other team member raised concerns related to the Student's anxiety.⁸³

31. In an email to the Parents dated November 22, 2024, Ms. Neyenhouse reiterated the District's decision not to advance the Student into third grade.⁸⁴ Ms. Neyenhouse wrote that,⁸⁵

The team at South Ridge believes we are serving him in the ways that best meet his needs. The current structures allow him to develop peer relationships, build resilience, and navigate challenges with classmates his age. These skills are crucial for long term success both in and out of school. It also is not beneficial for him to advance too quickly as it can place undue stress on him, particularly in later grades when the material becomes more complex.

32. Grade advancement is a decision made by school administration, not by the IEP team.⁸⁶

33. On December 2, 2024, in an email to Ms. Moskal, the Student's Mother sought advice about dealing with some recent examples of the Student's anxiety. The Mother wrote that the Student had been expressing significant anxiety about his performance on assignments and tests. He was frequently worried about how he's doing, going over every test or assignment he receives, focusing on anything marked wrong. She

⁷⁹ D8 p3; D18, p1, p3.

⁸⁰ D18 p3.

⁸¹ Ms. Neyenhouse has bachelor's degrees in secondary education and English, and a master's degree in educational leadership. She is certified to work as a public-school administrator in Washington state. Since the 2025-2026 school year, Ms. Neyenhouse has worked for the District as the director of career pathways and community engagement. Prior to that, she was the principal at South Ridge Elementary School. Before working for the District, Ms. Neyenhouse worked as an administrator in the Evergreen School District for ten years and as a teacher in the Stevenson school district. T39-40.

⁸² D18 pp2-3.

⁸³ T41.

⁸⁴ D19.

⁸⁵ D19.

⁸⁶ T41; T291; T320.

noted that his mistakes caused him a lot of stress and the loss of confidence was very unlike him.⁸⁷

34. Ms. Moskal replied on December 5, 2024, and suggested several positive responses/actions to implement when working with the Student at home. She also suggested that she could connect with the Student's teacher, check-in with the Student periodically, and consider the Student's needs during discussions with other teachers when assessing student needs for small groups for the next WIN round.⁸⁸

35. In an email response to Ms. Moskal, dated December 7, 2024, the Mother expressed her concern that the Student's mental state was rapidly deteriorating and his anxiety was escalating. She wrote that adjustments made by the District at that point had not sufficiently addressed the Student's challenges. The Mother requested a meeting with Ms. Moskal, the Student's classroom teacher, and the principal to discuss how to best support him.⁸⁹

36. On or about December 18, 2024, the following individuals participated in a care meeting to discuss the Student: the Parents, Ms. Heim; Ms. Orloff; SLP Kaelyn Straub;⁹⁰ Ms. Moskal; and Ms. Neyenhouse.⁹¹ At the meeting, Parents expressed concerns about the Student's anxiety, including shaking and tremors, and the Student's hatred of school and desire to be homeschooled.⁹² No District team member reported observing the Student shaking or having tremors at school.⁹³

37. After the December 18 meeting, the Mother believed the District team members lacked empathy about what was happening to her son and they seemed to lack knowledge and interest in how to serve a gifted student.⁹⁴ The Mother believed the District team members did not believe her when she described the behaviors and emotions the Student exhibited at home.⁹⁵

⁸⁷ D20 pp3-4.

⁸⁸ D20 p3.

⁸⁹ D20 p2.

⁹⁰ Ms. Straub has a bachelor's degree and a master's degree in speech and hearing sciences. She is certified to work as an SLP in Washington state. Ms. Straub worked for thirteen years as an elementary school SLP in Douglas School District. She has been an SLP in the District for five years. T105-106.

⁹¹ D11.

⁹² D11.

⁹³ T43.

⁹⁴ T429.

⁹⁵ T455.

38. On December 18, 2024, the Mother signed an Authorization and Consent of Release and Disclosure of Medical Information, providing the Student's therapist at Vancouver Clinic to send the Student's records to South Ridge Elementary.⁹⁶

January 2025 IEP Amendment

39. An IEP team meeting took place on January 15, 2025, to discuss amending the Student's IEP (January 2025 IEP Amendment).⁹⁷ The record does not show which team members participated in the January 15 meeting.⁹⁸ The team discussed potential accommodations for the Student and the Student's current work with his therapist.⁹⁹

40. The Mother believes she was met with dismissive behavior from the District team members at the January 15 meeting. She felt like those team members made fun of her.¹⁰⁰

41. During the January 15, 2025 IEP meeting, the Mother asked the team to add anxiety and ADHD to the Student's diagnoses on his IEP.¹⁰¹ The Parents requested an evaluation to look at the social/emotional needs of the Student. The Parents agreed to provide diagnoses from their doctor.¹⁰² By email on January 15, 2025, Ms. Neyenhouse asked school psychologist Laura Gutierrez¹⁰³ to connect with the Mother to start the reevaluation process to determine if the IEP team could amend the Student's IEP.¹⁰⁴

42. By PWN dated January 15, 2025, the team proposed continuing the Student's IEP.¹⁰⁵ The team amended the IEP to include the following accommodations:¹⁰⁶

- Access to advanced academic content through participation in targeted WIN group instruction

⁹⁶ D21.

⁹⁷ D23; D27 p3.

⁹⁸ D D23; D27 p3.

⁹⁹ D23.

¹⁰⁰ T459.

¹⁰¹ D25; D27 p15.

¹⁰² D27 p15.

¹⁰³ Ms. Gutierrez has an education specialist degree in psychology. She is licensed as a school psychologist in Washington state. Ms. Gutierrez has worked as a school psychologist in the District for eight years. She worked as a school psychologist before joining the District. T147-148.

¹⁰⁴ D25.

¹⁰⁵ D27 p15.

¹⁰⁶ D27 p9, p15.

- Avoid using jokes, sarcasm, or bringing unwanted attention to the student
- Break space / Calming corner
- Noise reducing headphones/ear buds
- Positive reinforcement and redirection
- Preferential and/or Alternative seating--close to the teacher; in a low-traffic area; standing, etc.
- Prompt in advance before big or new transitions (emergency drills, substitutes)
- Provide positive reinforcement using strength-based approaches (e.g. for progress, effort, and ideas)
- Provide verbal encouragement and prompts in subtle, private ways
- Regular check-ins with familiar adult to support focus and emotional wellbeing
- Use specific language to help [the Student] access regulation tools, i.e. "You have permission to...."

43. The District began providing the accommodations immediately after they were added to the IEP.¹⁰⁷ Via email on February 3, 2025, Ms. Moskal let the Mother know that she offered a "check-in" with the Student in the morning, but he declined. Ms. Moskal stated she would try again the next day.¹⁰⁸

44. The team also amended the IEP by adding recommendations to the general education section. In order to support both academic growth and social skill development, they included access to advanced materials and enriched vocabulary to meet his academic needs, while implementing flexible grouping strategies allowing him to work with peers at similar levels of ability for certain tasks.¹⁰⁹

45. On January 15, 2025, Ms. Orloff invited the Parents to observe the Student in the classroom.¹¹⁰ Ms. Orloff suggested the observation because she wanted to collaborate with the Student's family to ensure that the Student was receiving all the support he needed.¹¹¹

¹⁰⁷ T117.

¹⁰⁸ D32.

¹⁰⁹ D27 p7, p15.

¹¹⁰ D12 p4.

¹¹¹ D16 p34.

46. Around mid-January 2025, the Parents noticed the Student's anxiety and depression were "skyrocketing."¹¹² The Parents witnessed the Student at his "most mental unstable state" on mornings before he was supposed to go to school.¹¹³ The Student would end up on the floor crying, telling his Parents that no one at school believed him and no one cared about him.¹¹⁴ The Student told his Parents that he had no friends, he was sad all the time, and he expressed dark, suicidal thoughts.¹¹⁵ As they approached February, "it became harder and harder to get him out the door" and "it was just not possible to move him without brute force."¹¹⁶

47. On January 23, 2025, the Mother emailed Ms. Straub, and suggested adding the following accommodations to the Student's IEP:¹¹⁷

- Introduce advanced and novel tasks once content is mastered at 80%, avoiding unnecessary repetition and ensuring ongoing challenge.
- Emphasize idea development and creativity in writing over mechanics like grammar, punctuation, and spelling. This approach aims to build confidence, reduce anxiety, and discourage perfectionism by fostering a supportive environment that prioritizes expression and effort over technical accuracy.
- Substitute mastered words with more advanced and challenging options during spelling and vocabulary instruction to promote continued growth.

48. Ms. Straub responded to the Mother's January 23, 2025 email the same day, informing the Mother that her suggested accommodations would be better addressed in the Student's Highly Capable Student Learning Plan.¹¹⁸ Because an IEP is used to allow a student access to general education, it is not the proper instrument to address advanced work and/or acceleration.¹¹⁹

49. On January 24, 2025, the Parents observed the Student in the general education classroom.¹²⁰ During the observation, Ms. Orloff did not see the Student

¹¹² T474.

¹¹³ T626.

¹¹⁴ T626.

¹¹⁵ T475.

¹¹⁶ T626-627.

¹¹⁷ D26 p1.

¹¹⁸ D26 p1.

¹¹⁹ T45.

¹²⁰ D12.

engage in behavior that appeared anxious or that was atypical for him or for any second grader.¹²¹ She witnessed the Student quietly read a book when he finished the classwork before some of his classmates. According to Ms. Orloff, in a general education classroom, it is typical for some students to finish work early and for others to need more time.¹²²

50. During the January 24 classroom observation, the Mother estimates that she was in the classroom for less than an hour. She noticed the Student finishing his work quickly and then reading a chapter book.¹²³ She estimated that the Student spent 25 percent of the observation reading his book.¹²⁴ She observed him using a book or paper to shield his face, which she reasoned was the Student avoiding eye contact and attention.¹²⁵ After the observation, the Mother reported to Ms. Orloff that she witnessed the Student “picking his lips excessively” during the observation and she believed he appeared anxious.¹²⁶

51. On a date not shown in the record, the District received a letter from Allison Meade, PNP, at Vancouver Clinic.¹²⁷ The letter is dated January 21, 2025, and reports the following diagnoses for the Student: ADHD; amblyopia; generalized anxiety disorder; lower respiratory infection; sensory integration disorder; sleep apnea; and speech delay.¹²⁸

52. In an email to Ms. Moskal dated January 29, 2025, the Mother requested that only Ms. Moskal and the person performing the evaluation see the information shared in the Student’s Vancouver Clinic medical records.¹²⁹ The Mother had been warned by the Student’s therapist that she had never seen a school district use information from doctor visits “in a positive way” and that the information is “always weaponized.” The therapist warned the Mother to be careful what information she shared about the Student because “it will be used against him.”¹³⁰

53. During an IEP team meeting conducted on January 31, 2025, the Student’s Mother signed a Reevaluation Notification/Consent form, providing her consent for the District to reevaluate the Student in the areas of student observation, medical-

¹²¹ D16 pp35-36.

¹²² D16 pp35-36.

¹²³ 462.

¹²⁴ T464.

¹²⁵ T463.

¹²⁶ D16 p36; P27 p9; T462.

¹²⁷ D29.

¹²⁸ D29.

¹²⁹ D28 p1.

¹³⁰ T467.

physical, general education, communication, review of existing data, and social-emotional/behavior.¹³¹ The IEP team proposed the reevaluation of the Student to address concerns “related to [the Student’s] social emotional needs and diagnoses of anxiety and ADHD” and to “provide additional information needed to support any additional accommodations and services.”¹³² At the time the Mother signed the Reevaluation Notification/Consent form, the Parents did not express concerns that the Student had disabilities not identified on the form and did not suggest additional areas of assessment.¹³³ There is no evidence showing the Parents or other IEP team members raised concerns that the Student required assessment in any areas other than those identified on the January 31 Reevaluation Notification/Consent form.

54. Although she signed the consent for reevaluation, the Mother did not want to wait for the reevaluation to be completed before the Student could receive support.¹³⁴ She did not understand “why we couldn’t just help him now and then they could do the reevaluation.”¹³⁵

55. No one at the January 31, 2025 meeting suggested the Student was unable or unwilling to attend school.¹³⁶

56. The District issued a PWN on January 31, 2025, which informed the Parents that the IEP team refused to change the Student’s IEP and would be conducting a reevaluation of the Student.¹³⁷ The January 31, 2025 PWN reflects that the IEP team declined to add “Advanced Content and Assessments” as an accommodation to the Student’s IEP.¹³⁸ The IEP team agreed to “trial” the following “potential accommodations” and revisit them once the reevaluation was completed: qualify for anxiety; flexible grouping; study and executive functioning skills; regular check-ins; sensory breaks and emotional regulation; advanced vocabulary; writing assignments; and positive reinforcement.¹³⁹

¹³¹ D31.

¹³² D33 p5, p6.

¹³³ T150-151.

¹³⁴ T472.

¹³⁵ T472.

¹³⁶ T297.

¹³⁷ D 30 p1.

¹³⁸ D30 p3; Advance Content and Assessments is described as “Transition to novel, advanced content upon mastery (e.g., 80% accuracy) and eliminate redundant work. Ensure all academic work and assessments align with the student’s intellectual age, not their chronological age, and use alternative assessments that emphasize creativity, critical thinking, and conceptual understanding over rote memorization or surface-level tasks.”

¹³⁹ D30 p3.

57. The PWN noted that, during their recent observation of the Student during school, the Parents observed the Student lip picking and hiding behind his paper during group discussion. The Parents expressed concerns that the Student lacks stimulation in class and there is too much wait-time between classroom activities. The Parents expressed that they would like the Student to receive more accelerated direct instruction and accelerated content beyond his current curriculum.¹⁴⁰

58. According to the Mother, at the January 31, 2025 IEP meeting, Ms. Neyenhouse told the Parents that the team “will never accelerate any kid for any reason. I do not want to set a precedent that it’s allowed.”¹⁴¹ Ms. Neyenhouse denies making this statement.¹⁴²

59. Ms. Neyenhouse did not agree to advance the Student to the third grade because the District did not have data to support grade advancement.¹⁴³ According to Tiffany Gould,¹⁴⁴ executive director of teaching and learning/director of federal and state programs, research regarding the benefits and detriments of grade acceleration has shown it can be successful when a student is identified using criteria that includes assessment data and developmental data.¹⁴⁵

60. By email dated February 5, 2025, the Parents requested an IEP team meeting and informed the team that the Parents engaged the support of Dolcie Niemi,¹⁴⁶ a non-attorney special education advocate.¹⁴⁷ Ms. Niemi is not a BCBA, is not a certified educator in Washington, and does not hold any degrees in education.¹⁴⁸

¹⁴⁰ D 30 p3.

¹⁴¹ D37 p1; T460.

¹⁴² T42.

¹⁴³ T42.

¹⁴⁴ Ms. Gould has a bachelor’s degree in psychology and English, a master’s degree in teaching, an administrator’s credential, and a national board certification. For nine years she served in the District as director of federal and state programs. Beginning in February 2025, she also began serving as the executive director of teaching and learning. Her responsibilities for the two roles overlapped until 2026, when she began serving exclusively as the executive director of teaching and learning. Prior to joining the District, she worked for 23 years in a different district, 11 of those teaching in a second-grade general education classroom and 11 years in an interventionalist position. T318-319; T344.

¹⁴⁵ T320.

¹⁴⁶ Ms. Niemi has a bachelor’s degree in social and behavioral science and a master’s degree in healthcare administration. She expects to complete her master’s degree in social work in August 2026. Ms. Niemi became certified as a non-attorney special education advocate in the fall of 2024. She is trained as a Title 26 guardian ad litem. She has attended at least 50 IEP meetings. T373.

¹⁴⁷ D33.

¹⁴⁸ T397.

61. The Parents also wrote in the February 5 email that the Student would be attending school when they could get him there. The Parents wrote that, “We need to get supports in place at school that protect his mental health so he can resume regular attendance without significant anxiety.”¹⁴⁹

62. Around the time of the February 5 email, the Student had told the Mother that “school hurt.” The Mother did not want to push the Student anymore and force him to go to school if that was what he was feeling.¹⁵⁰ “I felt liked it wasn’t worth pushing him anymore to continue to go because I didn’t want him going to a place that made him feel that bad.”¹⁵¹ During the Parents morning routine with the Student,¹⁵²

We asked every morning how he's feeling. "How are we doing?" "How is our body feeling?" "And do you feel like you could go to school today?" "Do you feel like this is going to be okay?" And he would tell me "No, I'm not ready." And so I felt like I needed to respect his body and – and not push anymore.

63. The Mother did not share details about their morning routine with the District in January and February 2025. She “did not feel comfortable telling them what a dark space the Student was in because I feared that they would weaponize it like they had with everything else.”¹⁵³ The Parents told the District they were protecting the Student’s mental health. They wanted to “keep it vague” because they did not want to share something so personal.¹⁵⁴

64. In a February 5, 2025 email to Ms. Straub, the Mother requested copies of a PWN from a September 26, 2024 IEP meeting (regarding denial of math and whole grade acceleration). She also requested copies of PWNs that addressed the team’s refusal to add accommodations requested by the Parents during the January 15 and January 31 IEP meetings.¹⁵⁵ By email on February 10, 2025, Ms. Straub provided the Mother with copies of the three requested PWNs, noting that¹⁵⁶

The PWN for the 9/26 meeting date does not include information regarding acceleration due to the meeting's purpose being his annual IEP review. The subject of acceleration did not occur until the end of

¹⁴⁹ D33.

¹⁵⁰ T476-477.

¹⁵¹ T477.

¹⁵² T477.

¹⁵³ T478.

¹⁵⁴ T478-479.

¹⁵⁵ D35.

¹⁵⁶ D36 p1.

the meeting and after the admin had left the room, so thus not formally addressed at that time.

65. By email dated February 6, 2025, the Mother revoked the release of information that permitted Vancouver Clinic to share the Student's medical records with the District.¹⁵⁷ The Mother had intended that the Student's medical records be shared only with Ms. Moskal and Ms. Gutierrez.¹⁵⁸ At one of the team meetings, Ms. Moskal had the medical records with her and made a comment in front of the team about a specific disorder that was not anxiety or ADHD, which were the only conditions the team was addressing as part of serving the Student. The Mother believed Ms. Moskal's mentioning this private information in front of the team was an example of weaponizing the Student's medical records.¹⁵⁹ This led the Mother to revoke her consent to release the Student's medical records to the District.¹⁶⁰

66. At the time of the Mother's February 6 email, Ms. Moskal had received medical records from the Student's private provider. She had not shared the records with the school psychologist.¹⁶¹ After the February 6 email, Ms. Moskal placed the records in a sealed envelope and turned them over to the school psychologist.¹⁶²

67. In a February 8, 2025 email to Ms. Gutierrez, the Mother provided the following list of behaviors that the Student exhibits when he is anxious:¹⁶³

lip picking, shutting down, withdrawing, extreme hyperactivity in the morning/before bed in anticipation of attending school, accidents (only at school), frustration, crying after school, anger after school, easily dysregulated, trouble falling asleep, waking up too early, hyper-focus on the time in the morning, picking fingernails, trouble focusing/concentrating, shielding face from his teacher, not wanting to go to school, stuttering, reduced appetite, and avoiding eye contact with his teacher.

68. Also in her February 8, 2025 email the Mother addressed the following concerns with the Student's mental health as well as his attendance at school:¹⁶⁴

¹⁵⁷ D34.

¹⁵⁸ T468.

¹⁵⁹ T468.

¹⁶⁰ T467.

¹⁶¹ T277-278.

¹⁶² T278.

¹⁶³ D37 p1.

¹⁶⁴ D37 p2.

We are also concerned that he has become increasingly depressed as the school year has gone on. He feels like nobody at school 'gets' him, feels he doesn't have many friends, is questioning his intelligence (previously this was a source of pride for him), feels like he is just getting lucky and correctly guessing correct answers, is uncomfortable talking to adults at school, has low self-esteem (previous to starting school it was very high), complains of being bored, not learning, doesn't want to go to school, and is frustrated with school.

* * *

[Student] is attending school irregularly due to his mental health status. I will reach out to you when he is attending so you can work on a reassessment. After our conversation, I wondered – If would it be possible (*sic*) to schedule a meeting at the district office or somewhere outside of [South Ridge] so [Student] feels less anxious.

69. On February 11, 2025, Ms. Gutierrez emailed the Parents a link to the questionnaires to complete for the Student's reevaluation. She also informed the Parents that they would receive the forms in an email from Qglobal.¹⁶⁵ The Parents did not notify Ms. Gutierrez that they had not received an email from Qglobal.¹⁶⁶

70. On February 13, 2025, the Parents met with Ms. Gould to discuss their request to accelerate the Student to the third grade.¹⁶⁷ In a follow-up email to the Parents on February 18, 2025, Ms. Gould let the Parents know that the "Acceleration Team" would meet on March 4, 2025, to evaluate the Parents' acceleration request. Ms. Gould provided the Parents with a copy of the "Acceleration Guidelines," noting that the acceleration process had not been used in several years and the District was currently reviewing and updating the guidelines.¹⁶⁸

71. The IEP team met on February 25, 2025. The following team members attended the meeting: Ms. Straub, Ms. Orloff, Ms. Neyenhouse, Ms. Gutierrez, then Special Education Director Michael Baskette, and Ms. Niemi, Parents' advocate.¹⁶⁹ Ms. Straub took notes at the meeting.¹⁷⁰

¹⁶⁵ D37.

¹⁶⁶ T155.

¹⁶⁷ D40.

¹⁶⁸ D40.

¹⁶⁹ D41 p1.

¹⁷⁰ D41; T122-123.

72. Ms. Straub's notes include the following summary of what was discussed at the meeting:¹⁷¹

[Student] has been experiencing increased anxiety, depression, and lack of connection at school. He has stopped attending school entirely, preferring to stay home. Attempts to re-engage him, such as half-day attendance and incentives, have been unsuccessful. The team discussed potential solutions, including home instruction, Wisdom Ridge online school, and involving [Student]'s therapist. Concerns were raised about the effectiveness of home instruction due to its impact on social development. The need for a trusted adult at school to rebuild [Student]'s trust was emphasized, along with the importance of addressing his cognitive needs and anxiety.

73. At the February 25 meeting, the Mother shared that the Student did not want to go to school and was in "refusal mode." She shared that he does not feel safe or connected to anyone at school.¹⁷² The Parents shared that the Student will "happily" go to other places, but he has a "meltdown" if school is mentioned.¹⁷³ The Mother believed that the Student was at the point that he was so anxious, disconnected, and overwhelmed on a daily basis that he could not continue to be in the school environment anymore.¹⁷⁴

74. At the February 25 meeting, District members of the team mentioned that Wisdom Ridge, an online virtual option, worked for other students who demonstrate anxiety.¹⁷⁵ The team agreed that the District would perform an FBA of the Student and the Parents agreed to provide written consent.¹⁷⁶ At that time, District team members had not observed the Student exhibit behaviors in school that interfered with his ability to participate in learning in the classroom.¹⁷⁷

75. At the February 25 meeting, Ms. Niemi asked whether the District would consider at-home instruction for the Student.¹⁷⁸ Ms. Niemi believed the District could

¹⁷¹ D41 p1.

¹⁷² D41 p1.

¹⁷³ D41 p2.

¹⁷⁴ T482.

¹⁷⁵ D41 p2.

¹⁷⁶ D41 p2.

¹⁷⁷ T49.

¹⁷⁸ D41 p2.

arrange for an adult professional educator to come to the home and educate the Student, as opposed to online instruction and homeschooling by the Parents.¹⁷⁹

76. At the time, the District did not have data that would support a change in the Student's IEP placement from 80%-100% in the general education setting to in-home instruction.¹⁸⁰

77. On March 3, 2025, Ms. Gutierrez emailed the Parents a school refusal questionnaire and a Release of Information form for the reevaluation and the FBA. Ms. Gutierrez informed the Parents that completing the FBA would depend on how quickly the team was able to gather the needed information.¹⁸¹ Ms. Gutierrez also asked the Parents on March 3 to let her know the times of day when the Student's behaviors were most likely to occur so they could plan their observations.¹⁸²

78. On March 6, 2025, Ms. Gutierrez reminded the Parents via email that the reevaluation deadline was March 27, 2025.¹⁸³ She also clarified that the school refusal questionnaire she sent previously was one they should complete themselves, and that Ms. Gutierrez would ask the Student questions later from a separate school refusal assessment.¹⁸⁴

79. On March 6, 2025, the Mother electronically signed a Functional Behavioral Assessment Consent form, providing her consent for the District to perform an FBA of the Student.¹⁸⁵

80. On March 6, 2025, the Student's Mother electronically signed a Consent for Evaluation, providing her consent to add "sensory" as an area of evaluation for the Student.¹⁸⁶ On the form, the Mother provided the following additional concerns to be considered: "The more stressed/anxious he is, the less sensory input is tolerated. If he is in a setting where he doesn't feel safe-like at school- he will freeze/shut down and meltdown later."¹⁸⁷

81. In an email dated March 6, 2025, the Mother suggested the requested home visit should take place on March 12 between 9:30 a.m. and 2:00 p.m., acknowledging

¹⁷⁹ T377-378.

¹⁸⁰ T48.

¹⁸¹ D42 p1.

¹⁸² D42 p1.

¹⁸³ D46 p3.

¹⁸⁴ D46 p2.

¹⁸⁵ D45.

¹⁸⁶ D44.

¹⁸⁷ D44.

that it was unlikely they would witness “significant behavioral episodes” during that visit. She noted that the Student’s behaviors in the home setting “are likely to reflect his most regulated state,” which is “why he was at home and not at school.”¹⁸⁸

82. In the March 6 email, the Mother also stated that she understood the need to evaluate the Student’s behaviors at a District office meeting and speculated that a District office setting is where they would be more likely to observe the Student’s “dysregulation.” She noted, however, that she would “not subject him to unnecessary anxiety or triggering questioning.”¹⁸⁹

83. On March 6, 2025, the Parents also informed Ms. Gutierrez that they would not share the Student’s medical records with District staff because they believed previously shared medical information about the Student had been “used inappropriately.”¹⁹⁰

84. By email dated March 7, 2025, Ms. Gould informed the Parents that the Acceleration Team met on March 4 and was unable to determine if the Student could be accelerated to the next grade due to insufficient data.¹⁹¹ Ms. Gould requested the following assessments be administered to the Student to allow the Acceleration Team to make a decision: ability assessment (Wechsler Intelligence Scale); aptitude assessment (Woodcock-Johnson Achievement Battery); achievement assessment (Woodcock-Johnson Tests of Achievement or Wechsler Individual Achievement Test).¹⁹²

85. By letter dated March 11, 2025, PNP Allison Meade with Vancouver Clinic reiterated that the Student was diagnosed with ADHD and anxiety disorder and required appropriate accommodations and interventions for those diagnoses. Ms. Meade recommended working closely with the Student’s therapist and the Parents “for reentry into the classroom in a safe and productive way for [the Student], exploring all options to get him back into a classroom and thriving.”¹⁹³ There is no evidence showing that the Parents shared Ms. Meade’s letter with the District prior to the end of the school year.

¹⁸⁸ D46 p2.

¹⁸⁹ D46 pp2-3.

¹⁹⁰ D46 pp2-3.

¹⁹¹ P15 p8.

¹⁹² P15 p8.

¹⁹³ P13.

86. Merilee Schmidt,¹⁹⁴ board certified behavior analyst (BCBA) observed the Student in his home on March 12, 2025, as part of the FBA.¹⁹⁵ Ms. Gutierrez accompanied Ms. Schmidt during the home visit with the Student.¹⁹⁶ Ms. Gutierrez and the Mother planned a low-stress experience for the Student, consisting of playing games and drinking tea with the Student while he was asked questions.¹⁹⁷ The Student was not preparing for or expecting to go to school during the observation.¹⁹⁸

87. Ms. Gutierrez has conducted “dozens” of FBAs.¹⁹⁹ Ms. Schmidt has conducted more than 10 FBAs. This was her first that addressed potential school refusal.²⁰⁰

88. Ms. Schmidt recorded notes from the March 12, 2025 meeting at the Student’s home.²⁰¹ Her notes reflect the Parents reporting that the Student²⁰²

does not want to go to school, and will sit on the floor crying before school. Parents indicated that this did not constitute a barrier to getting him to school, rather, that their concern over the state of his mental health led them to choose to keep him home at this time.

89. According to Ms. Gutierrez and Ms. Schmidt, Ms. Schmidt’s notes accurately reflect what the Parents shared during the meeting on March 12, 2025.²⁰³

90. The Father denies stating that the Student’s behaviors “did not constitute a barrier to getting him to school.”²⁰⁴

91. During her visit to the Student’s home on March 12, Ms. Schmidt did not witness the Student exhibit behaviors the Parents’ had reported.²⁰⁵ The trigger to the

¹⁹⁴ Ms. Schmidt has a psychology degree in behavior analysis. Before becoming a BCBA, she worked as a paraeducator for ten years. She is certified to work in Washington public schools as a BCBA. Ms. Schmidt has worked for the District for over a year. Before joining the District, she worked at an applied behavioral analysis clinic, spending six years as an assistant behavior analyst and then as a BCBA. T209-210.

¹⁹⁵ D2; D46; D47.

¹⁹⁶ D2 p1; T160.

¹⁹⁷ D46 p1; T246.

¹⁹⁸ T246.

¹⁹⁹ T177.

²⁰⁰ T257-258.

²⁰¹ T211.

²⁰² D2 p1.

²⁰³ T163-164; T212.

²⁰⁴ T634.

²⁰⁵ T211-212.

reported behaviors was being told he would have to go to school. The Parents did not want to present the trigger because they did not want to upset the Student.²⁰⁶

92. Ms. Schmidt informed the Parents that they can take a video of any behaviors that occur in the home and share those with her for the reevaluation.²⁰⁷

93. During the March 12 visit, the Student reported that he likes math, P.E., art and music at school. He stated that school can be stressful because it is loud in the classroom and even louder on the bus, and the cafeteria is large with lots of echoes. He also mentioned that he has a hard time connecting with his peers because they have different interests; however, he reported that he has one friend.²⁰⁸

94. During the home visit, neither Ms. Gutierrez nor Ms. Schmidt witnessed the Student picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.²⁰⁹ The Student did not indicate to Ms. Schmidt during her home visit that he did not want to go to school.²¹⁰

95. Ms. Gutierrez believes she and Ms. Schmidt were in the Student's home for 1.5 hours.²¹¹ The Mother estimates the entire visit lasted 20 to 30 minutes.²¹²

96. By email on March 13, 2025, Ms. Gutierrez reminded the Parents to complete the sensory questionnaire, the school refusal questionnaire, and the BRIEF-2 questionnaire.²¹³ Ms. Gutierrez also proposed meeting on March 25 or March 27 to discuss the Reevaluation and the FBA.²¹⁴ The Parents did not respond to the meeting request and did not return the forms at that time.²¹⁵ There is no evidence in the record showing the Parents returned a completed school refusal questionnaire.

97. The IEP team met again on March 13, 2025, to continue discussing a plan to serve the Student.²¹⁶ The Parents, Ms. Straub, Ms. Orloff, Ms. Neyenhouse, Ms.

²⁰⁶ T212.

²⁰⁷ D2 p2.

²⁰⁸ D2 p1.

²⁰⁹ T152-153; T215-216.

²¹⁰ T214.

²¹¹ T177.

²¹² T488.

²¹³ D46 p1.

²¹⁴ D46 p1.

²¹⁵ T160-161.

²¹⁶ D43; D47.

Gutierrez, Ms. Moskal, Ms. Heim, Ms. Schmidt, Ms. Gould, Mr. Baskette, and Ms. Niemi attended the meeting.²¹⁷

98. Ms. Neyenhouse took notes during the March 13 meeting and believes the information recorded in her notes is accurate.²¹⁸ Ms. Schmidt, Ms. Heim, and Ms. Gould agree that the notes accurately reflect the discussions from that meeting.²¹⁹ Ms. Neyenhouse's notes reflect the following:²²⁰

- Student's behaviors at home before leaving for school are not preventing them from getting him to school, "but parents are keeping him home because they are concerned about his mental health."
- Mother "wants to be clear they are keeping him home because they are concerned about the escalation in his anxiety and depression related to school. He asks to stay home and they are not forcing him when he feels overwhelmed or anxious."
- Father stated that "Getting [Student] to school is not an issue."
- BCBA Ms. Schmidt, Mr. Baskette, and Ms. Gutierrez agreed that the Student did not exhibit behaviors during the March 12 home visit that would require an FBA.
- The District would require more data before the District could determine if the Student could be accelerated to the third grade.
- Ms. Niemi requested to forego a communication assessment. Parents agreed to forego a communication assessment for the reevaluation to avoid stress to the Student; Parents agreed to allow SLP to use existing data.

99. The Mother believes Ms. Neyenhouse's summary of her statement above (regarding keeping the Student home due to concerns about the escalation in his anxiety and depression, and they are not forcing him when he feels overwhelmed or anxious), is only a brief account of her contribution and does not accurately reflect her statements.²²¹ The Mother noted that she also shared that the Student had other

²¹⁷ D47 p1.

²¹⁸ D47 p1; T50.

²¹⁹ T228; T298; 321.

²²⁰ D47 pp1-6.

²²¹ T489.

concerning symptoms, such as lack of appetite, moving and talking quickly, and problems sleeping.²²²

100. The Mother also disagreed with Ms. Neyenhouse's characterization in her notes that the Parents were "keeping [the Student] home." The Mother tried to make clear at the meeting that she believed the Student suffered poor mental health and was in a fragile position, but she believes the District saw it as the Student being "a little worried" and the Parents were blowing it out of proportion.²²³ The Mother believes the District fabricated information to support their narrative, but that narrative did not align with what the Parents were experiencing at home.²²⁴

101. At the March 13 meeting, Ms. Niemi discussed providing the Student with opportunities to work on more challenging math outside his second grade general education classroom and possibly accelerating him to a third grade math class.²²⁵

102. In response to Ms. Gutierrez stating that the team had not seen a behavior they would typically write an FBA for, Ms. Niemi replied that, "the [P]arents aren't going to traumatize the [S]tudent anymore just to see the behaviors."²²⁶

103. The Mother took notes during the March 13 meeting.²²⁷ Her notes show that Ms. Gould did not "want to set a precedent of acceleration and refused to consider accelerating the Student without data."²²⁸ The Mother's notes reflect that Ms. Schmidt reported the Student did not show anxiety during the home visit on March 12, 2025. The Mother pointed out that the Student replied "I don't know" to several questions during that visit and that his response indicated he was "shutting down."²²⁹ In response to Ms. Schmidt's claim that the Parents were choosing not to send the Student to school, the Mother said that "he didn't want to go and asked to stay home due to anxiety, depression, too overwhelmed."²³⁰

104. Ms. Schmidt noted that saying "I don't know" is not a behavior that constitutes a behavior intervention plan.²³¹ It is a communicative response and not a behavior

²²² T490.

²²³ T490.

²²⁴ T491.

²²⁵ D47 p4.

²²⁶ D47 p3.

²²⁷ P27; T491.

²²⁸ P27 p2.

²²⁹ P27 p2.

²³⁰ P27 p2.

²³¹ D47 p2; T229-230.

that they would seek to decrease. She does not consider it as a sign the Student is “shutting down,” because he is still engaging in the conversation.²³²

105. The team met again on March 18, 2025, to discuss a return to school plan for the Student.²³³ Participants included the Parents, Ms. Niemi, Ms. Neyenhouse, Ms. Gould, and Mr. Baskette.²³⁴

106. At the March 18 meeting, the District proposed three options for the Student to return to school: (1) Student will attend a second-grade class full-time and will be pulled out temporarily during math instruction to engage in alternative math activities, with evidence collected regarding potential acceleration; (2) Student will attend a second-grade class full-time and will join a third- grade classroom temporarily for math instruction, with evidence of progress collected to determine long-term placement; and (3) Student will attend a second-grade class full-time and will temporarily receive math instruction at home, with parents taking responsibility for providing math instruction and enrichment activities.²³⁵

107. All three proposed options involved a full day at school as well as conducting assessments for the Iowa Acceleration Scale (IAS) and completing the FBA during the school day.²³⁶

108. The IAS is an instrument used to evaluate whether or not acceleration is appropriate for a student. It is a recognized protocol in the field and recommends a cognitive, academic, and developmental assessments.²³⁷ The IAS assessments were not part of the Student’s Reevaluation because grade acceleration decisions are part of a general education process.²³⁸

109. The Parents declined the District’s proposals, including assessments for the IAS.²³⁹ According to the District’s March 18 meeting notes, Ms. Niemi reported that none of the three proposed options would work as the Parents believed attending school full time would have a negative impact on the Student and would “go against the recommendations of the [Student’s] physician, and his therapist.”²⁴⁰ The Mother

²³² T230.

²³³ D48; D49.

²³⁴ D48.

²³⁵ D49 pp1-2.

²³⁶ D49 pp1-2.

²³⁷ T324-325.

²³⁸ T325

²³⁹ T53; T325.

²⁴⁰ D49 p2.

believed the return to school would need to be “very slow and carefully done” to be successful.²⁴¹

110. The March 18 meeting notes show Ms. Niemi referenced the March 11, 2025 letter from PNP Allison Meade; however, there is no evidence that the Parents shared the letter with the team.²⁴² As of March 18, 2025, the District did not have anything in writing from a medical provider stating the Student was unable to attend school in-person.²⁴³

111. During the March 18, 2025 meeting, the District proposed enrolling the Student at Wisdom Ridge for some of his math instruction.²⁴⁴ Ms. Gould suggested that the Student could work at his own pace there in any grade.²⁴⁵ The Mother’s notes reflect that she asked Ms. Gould to stop suggesting Wisdom Ridge as the Parents did not want the Student to enroll there.²⁴⁶

112. The team met again on March 19, 2025, to discuss a revised plan with phases to increase the Student’s time at school.²⁴⁷ The team revised their proposal to incorporate options for a reduced schedule for the Student.²⁴⁸ Ms. Neyenhouse, Ms. Gould, the Parents, and Ms. Niemi attending the meeting.²⁴⁹ The District’s meeting notes do not identify the meeting as an IEP meeting, but as a meeting to discuss return to school options. The notes reflect discussion of a three-phase “slow start proposal” for the Student returning to school: Phase 1) third grade math one to two days per week; Phase 2) continue third grade math and second grade specials; Phase 3) add lunch and recess in second grade.²⁵⁰ The proposal also included completing the FBA during the school day.²⁵¹

113. At the March 19, 2025 meeting, Ms. Neyenhouse requested documentation from a medical provider showing the Student was unable to attend school.²⁵² The District did not receive this documentation before the end of the school year.²⁵³

²⁴¹ T492-493.

²⁴² D49 p2.

²⁴³ T54.

²⁴⁴ D51 p5.

²⁴⁵ P27 p3.

²⁴⁶ P27 p3.

²⁴⁷ D50.

²⁴⁸ T347.

²⁴⁹ D50 p1.

²⁵⁰ D50 p1.

²⁵¹ D51 p2.

²⁵² D50 p2; T56.

²⁵³ T56; T326.

114. On March 19, Ms. Neyenhouse emailed the Parents a copy of the slow start proposal.²⁵⁴

115. The Student attended school twice after the March 19, 2025 meeting.²⁵⁵

116. During the March 18, 2025 IEP meeting, the Parents requested a new school psychologist for the Reevaluation.²⁵⁶ School psychologist Lacy Joiner²⁵⁷ took on the role as psychologist for the Reevaluation.²⁵⁸

2025 Reevaluation

117. As part of the 2025 Reevaluation, the District assessed the Student in the areas of medical-physical,²⁵⁹ general education,²⁶⁰ communication,²⁶¹ sensory,²⁶² social-emotional/behavior,²⁶³ and observation.²⁶⁴

118. To complete the 2025 Reevaluation, the District used a review of existing data; the Behavior Assessment System for Children, Third Edition (BASC-3); the Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2); Sensory Processing Measure, Second Edition (SPM-2); Communication Data Review; and Parents' input, teacher input, Student interview, and observation.²⁶⁵

Medical-Physical

119. To complete the medical-physical assessment of the Student, Ms. Gutierrez relied on a social-emotional/behavior questionnaire completed by the Parents on February 16, 2025.²⁶⁶ The medical-physical assessment incorporates the Parents' report that the Student cries and is angry after school, is easily dysregulated, gets

²⁵⁴ D51 p1.

²⁵⁵ T58; T495.

²⁵⁶ D49 p3.

²⁵⁷ Ms. Joiner has a bachelor's degree in psychology and an education specialist degree in school psychology. She is certified to work as a school psychologist in Washington state. Ms. Joiner has been a school psychologist with the District for four years. Prior to joining the District, she worked as a school psychologist in a different district. D15 pp6-7.

²⁵⁸ D15 p7.

²⁵⁹ D1 pp11-15.

²⁶⁰ D1 pp15-17.

²⁶¹ D1 pp17-19.

²⁶² D1 pp19-20.

²⁶³ D1 pp20-27.

²⁶⁴ D1 pp27-28.

²⁶⁵ D1 p29.

²⁶⁶ D1 p11.

overwhelmed in settings that are loud/high energy/overly stimulating, and withdraws when he is uncomfortable.²⁶⁷

120. The team also relied on the Student's prior school vision and hearing screenings and documentation provided by the Parents that reflects the Student's following diagnoses: attention deficit hyperactivity disorder (ADHD); amblyopia; generalized anxiety disorder; sensory integration disorder; sleep apnea; and speech delay.²⁶⁸ No educational implications are identified in the Reevaluation report.²⁶⁹

General Education

121. In the general education section of the evaluation, Ms. Gutierrez reviewed input provided by the Student's general education teacher, Ms. Orloff. Ms. Orloff noted that the Student excelled in ELA and was fluent in addition/subtraction and had strong problem solving skills. Ms. Orloff found the Student to be considerate, polite, mature, respectful, cooperative, hardworking, focused, and independent.²⁷⁰ Ms. Orloff noted the Student needed to work on engaging more actively in class discussions and working with different classmates to strengthen teamwork and social connections.²⁷¹

Communication

122. To assess the Student in the area of communication, Ms. Straub, relied on observations, speech therapy data, and teacher input. The Parents agreed to allow the use of speech therapy data in lieu of a standardized assessment, based on mental health concerns for the Student.²⁷² Ms. Straub believed it was appropriate to use existing data in lieu of a communication assessment because the Student was performing consistently in his SLP sessions over time and his teachers reported that he was doing well academically with communication.²⁷³ She believed the existing data accurately represented his communication skills.²⁷⁴ Based on her observations, Ms. Straub reported that the Student transitioned easily to the speech therapy classroom and easily engaged in conversation. The Student accepted feedback appropriately

²⁶⁷ D1 pp11-15.

²⁶⁸ D1 p15.

²⁶⁹ D1 p15.

²⁷⁰ D1 p15.

²⁷¹ D1 p17.

²⁷² D1 p17.

²⁷³ T125, T128.

²⁷⁴ T125.

and attempted to apply feedback during the same speech therapy session. His attention to speech therapy activities was considered to be within the typical range.²⁷⁵

123. The Student maintained between 83-100% accuracy with skills practiced during speech therapy sessions. He sometimes made errors during conversational speech, but he was able to self-correct and say the sounds correctly, often without reminders.²⁷⁶ Ms. Straub reported that the Student's speech-sound errors did not interfere with his ability to access and engage in the general education curriculum. His speech is considered functional for the school environment if his "articulation differences do not result in persistent misunderstandings or limit his participation."²⁷⁷

124. Ms. Straub concluded that the Student no longer met the eligibility criteria for special education services in the area of articulation because his articulation did not adversely affect his educational performance and he participated effectively in general education without the need for specially designed instruction.²⁷⁸

125. During her time working with the Student at school, Ms. Straub did not witness him picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.²⁷⁹ She did not observe any signs that anxiety interfered with his ability to benefit from and participate in learning during his second grade year.²⁸⁰

Sensory

126. Sarah Bossert,²⁸¹ occupational therapist (OT), performed the sensory assessment of the Student.²⁸² She is qualified to administer standardized testing in the area of OT and interpret the results.²⁸³

127. Ms. Bossert assessed the Student's sensory processing skills using teacher reporting and the Sensory Processing Measure, Second Edition (SPM-2).²⁸⁴ The SPM-

²⁷⁵ D1 p17.

²⁷⁶ D1 pp17-18.

²⁷⁷ D1 p18.

²⁷⁸ D1 pp18-19.

²⁷⁹ T111-112.

²⁸⁰ T112.

²⁸¹ Ms. Bossert has a bachelor's degree in family and child sciences and a master's degree in occupational therapy. She is certified to work in Washington public schools as an OT. She has worked in the District for six years. Prior to joining the District, she worked for three years as an OT with medically fragile children. T194.

²⁸² D1 p19; T195.

²⁸³ T194.

²⁸⁴ D1 p19.

2 is a standardized questionnaire used to test sensory processing and the Student's processing needs in the classroom.²⁸⁵ Ms. Bossert administered the SPM-2 in accordance with the manufacturer's instructions and in the Student's spoken language. She did not have concerns that the assessment discriminated against students of the Student's racial and cultural background.²⁸⁶

128. General education teacher Ms. Orloff completed the SPM-2 Classroom Form and the Student's Mother completed the SPM-2 Home Form.²⁸⁷ Ms. Orloff did not report any sensory processing concerns for the Student in the classroom.²⁸⁸

129. The SPM-2 results indicate that the Student's sensory processing skills in the classroom and at home fall into the "typical" range, except for hearing, which was recorded as "moderate difficulties" in the classroom.²⁸⁹

< 60	Typical (white)
60-69	Moderate Difficulties (light gray)
> 69	Severe Difficulties (dark gray)

Area	School Form T-score	Category	Diff?	Home Form T-score	Category
Vision	40	Typical	No	40	Typical
Hearing	62	Moderate Difficulties	No	54	Typical
Touch	40	Typical	Definite	59	Typical
Taste & Smell	40	Typical	No	49	Typical
Body Awareness	40	Typical	No	45	Typical
Balance & Motion	43	Typical	No	41	Typical

²⁸⁵ D1 p19; T197-198.

²⁸⁶ T197-198.

²⁸⁷ D1 p19.

²⁸⁸ T196.

²⁸⁹ D1 pp19-20.

Sensory Total	47	Typical	No	48	Typical
Planning and Ideas	48	Typical	No	53	Typical
Social Participation	58	Typical	Probable	46	Typical

130. A finding of moderate difficulty in hearing does not put the student in the “clinically significant” range and Ms. Bossert believes that student’s needs could typically be addressed with classroom accommodations.²⁹⁰

131. Ms. Bossert concluded that the Student has no sensory processing concerns that would likely affect his access to his education. Based on the information considered, she determined the Student did not require occupational therapy consultation services in order to access his education.²⁹¹

Social-Emotional/Behavior

132. To assess the Student’s social-emotional/behavior, Ms. Gutierrez completed the Behavior Assessment System for Children – Third Edition (BASC-3).²⁹² The BASC-3 is used to²⁹³

evaluate the behavior and self-perceptions of students by assessing parent and teacher perceptions of students’ pro-social and adaptive skills, externalizing problems (hyperactivity, aggression, problems of conduct) and internalizing problems (anxiety, depression, somatization) within the home and school environments.

133. The BASC-3 subset categories are defined as follows:²⁹⁴

- Anxiety: Tendency to be nervous, fearful or worried about real or imagined problems.
- Depression: Feelings of unhappiness, sadness, and stress that may result in an inability to carryout everyday activities or may bring on thoughts of suicide.
- Withdrawal: Tendency to evade others to avoid social contact.

²⁹⁰ T200.

²⁹¹ D1 p20; T199-201.

²⁹² T166-167.

²⁹³ D1 pp20-22.

²⁹⁴ D1 pp20-22.

- Adaptability: The ability to adapt readily to changes in the environment.
- Social Skills: The skills necessary for interacting with peers and adults.
- Leadership: The skills associated with accomplishing academic, social or community goals, including the ability to get work done with others.
- Functional Communication: The ability to express ideas and communicate in a way others can easily understand.
- Atypicality: Tendency to behave in ways that are considered “odd” or behaviors that are not seen in the typical-age peer.

134. The BASC-3 is administered electronically. It is a valid and reliable method to assess the social-emotional/behavior functioning of children the Student’s age. Ms. Gutierrez administered the BASC-3 in accordance with the manufacturer’s instructions and in the Student’s spoken language. She did not have concerns that the assessment discriminated against students of the Student’s racial and cultural background.²⁹⁵

135. Using the BASC-3, the Parents and Ms. Orloff completed forms to assess the Student’s functioning through five composite areas: externalizing problems, internalizing problems, behavior symptoms index, school problems, and adaptive skills. The composite areas are comprised of subset behaviors which are scored by the assessor.²⁹⁶

136. The BASC-3 also offers a student questionnaire that can be completed by the student. The test manufacturer’s instructions specify that the student questionnaire is appropriate for students in third grade or higher. Ms. Gutierrez did not have the Student complete the student questionnaire because at the time he was in second grade.²⁹⁷

137. The BASC-3 rating scales show that Parents rated the Student as “clinically significant” for the subset of anxiety, and “at-risk” for depression, withdrawal, adaptability, social skills, leadership, and functional communication. All other subset categories were rated as “average” or “NA” by the Parents.²⁹⁸ Ms. Orloff rated the

²⁹⁵ T166-167.

²⁹⁶ D1 pp21-23.

²⁹⁷ T168.

²⁹⁸ D1 pp22-23.

Student as “average” in all subset categories, except withdrawal, which was “clinically significant,” and atypicality, which was “at risk.”²⁹⁹

138. Ms. Orloff rated the Student as “at risk” for atypicality because, although he was able to work with other students, he had only one close friend in the classroom, which is fewer than she would expect a second grader to have.³⁰⁰ As for the “clinically significant” rating for withdrawal, Ms. Orloff is not sure that rating is accurate and she believes further assessments would be needed to assure its credibility.³⁰¹

139. The Student’s scores regarding anxiety reflect that, in the school setting, he displayed an average amount of anxiety for a student of his age.³⁰² His overall BASC-3 results showed the Student was not experiencing social-emotional/behavior functioning that impacted him in the school setting.³⁰³

140. Ms. Orloff provided the following behavioral and/or emotional concerns about the Student:³⁰⁴

- Doesn't have many friends. He gets along well with everyone, but I am not sure if he has more than one friend.
- He seems to be under a lot of pressure and feels like he needs to be the best at everything. He often gets stressed by class games like Kahoot. He has also said things, like, "of course, I got a 3 or a 4."
- He doesn't take calming corner breaks when he needs them.

141. The results of the BASC-3 did not indicate any deficits in the area of executive functioning.³⁰⁵

142. As part of the social-emotional/behavior assessment, Ms. Gutierrez used the Behavior Rating Inventory of Executive Function, Second Edition (BRIEF–2) to assess the Student’s executive functioning skills.³⁰⁶ The BRIEF-2 assesses “everyday behaviors associated with executive functions in the home and school

²⁹⁹ D1 pp22-23.

³⁰⁰ D16 pp47-48.

³⁰¹ D16 p48.

³⁰² T169.

³⁰³ T169

³⁰⁴ D1 p24.

³⁰⁵ D1 p24; T170.

³⁰⁶ D1 p24-27.

environments.”³⁰⁷ It measures the Student’s executive functioning through three composite indexes: behavior regulation, emotion regulation, and cognitive regulation. The composite areas are comprised of subset regulative skills which are scored by the assessor.³⁰⁸

143. The BRIEF-2 is administered electronically or by paper. It is a valid and reliable method to assess executive functioning of a child the Student’s age. Ms. Gutierrez administered the BRIEF-2 in accordance with the manufacturer’s instructions and in the Student’s spoken language. She did not have concerns that the assessment discriminated against students of the Student’s racial and cultural background.³⁰⁹

144. The Parents and Ms. Orloff completed forms to assess the Student’s executive functioning. Ms. Orloff completed the BRIEF-2 teacher form on February 12, 2025, and the Student’s mother completed the BRIEF-2 parent form on April 7, 2025.³¹⁰ Ms. Orloff rated the Student as “average” in all areas of executive functioning in the school setting.³¹¹ In the home setting, the Parents rated the Student as average in all areas, except “shift” and “emotional” which they rated as “potentially clinically elevated.”³¹²

145. “Shift” and “emotional control” are subsets of the emotion regulation index on the BRIEF-2. They are described as follows:³¹³

- Shift: Move freely from one situation, activity, or aspect of a problem to another as the situation demands; transition; solve problems flexibly.
- Emotional Control: Modulate emotional responses appropriately.

146. Based on the information provided by Ms. Orloff on the BRIEF-2 teacher form, in the school setting, the Student exhibits the ability to self-regulate, to adjust well to changes in environment/people/plans/demands and react to events appropriately compared to same-age peers.³¹⁴ Cognitively he was rated as able to get going on tasks/activities independently, demonstrate problem-solving skills, sustain working memory, plan and organize approaches when problem solving, check for mistakes

³⁰⁷ D1 p24.

³⁰⁸ D1 pp25-27.

³⁰⁹ T170-171.

³¹⁰ D1 p26.

³¹¹ D1 pp26-27.

³¹² D1 pp26-27.

³¹³ D1 p25.

³¹⁴ D1 p27.

and keep materials and belongings reasonably well organized.³¹⁵ Based on the report of the Parents, in the home setting, the Student struggles with significant problem-solving rigidity combined with emotional dysregulation. This suggests he may have a tendency to lose emotional control when his routines or perspectives are challenged or when flexibility is required.³¹⁶

147. The results of the BRIEF-2 assessment did not indicate any concerns regarding the Student's executive functioning in the school setting.³¹⁷

Observation

148. Ms. Joiner observed the Student in a District office conference room on March 21, 2025.³¹⁸ The Student's Mother and Ms. Schmidt were present during the observation.³¹⁹ During the observation, the Student talked with Ms. Joiner about a game he brought with him.³²⁰ Ms. Joiner recalled that the Student seemed anxious at the beginning of the observation, but she found he "opened up more and more" as they talked and interacted.³²¹ During the conversation, Ms. Joiner and Ms. Schmidt saw the Student fidget with his hands.³²² Ms. Joiner also noted that the Student swayed frequently. She did not observe the behaviors impact the Student's ability to share and speak.³²³

149. During her observation of the Student, Ms. Joiner asked the Student questions from an "informal" school refusal form provided to her by the previous psychologist, Ms. Gutierrez.³²⁴ Ms. Gutierrez believes that asking the Student questions, rather than having him complete the form himself, would provide useful information for the reevaluation team's decisions regarding eligibility and services.³²⁵

150. The school refusal form included questions for the Student about how he felt about school, his anxiety about school, about doing schoolwork, interacting with peers, and interacting with teachers.³²⁶ The Student provided short answers that

³¹⁵ D1 p27.

³¹⁶ D1 p27.

³¹⁷ T171.

³¹⁸ D1 p27; D15 p7.

³¹⁹ D1 p27; D2 p3; T219.

³²⁰ D1 p27.

³²¹ D15 p11.

³²² D1 p27; T250-251.

³²³ D1 p27.

³²⁴ D15 pp11-12.

³²⁵ T157.

³²⁶ D1 p28; D15 p12.

indicated to Ms. Joiner that the Student was not nervous about going to school, that he was comfortable doing work in and out of the classroom, but he believes he learns best at home.³²⁷ When answering questions about friends and peers, the Student did not express concerns, discomfort, or anxiety.³²⁸ Based on the Student's responses, Ms. Joiner determined the Student did not "feel anxious or stressed about attending school or being at school."³²⁹

151. During her observation of the Student on March 21, 2025, Ms. Schmidt did not witness the Student picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.³³⁰ She did not witness any other indicators that the Student may have been experiencing anxiety.³³¹

152. Ms. Schmidt and Ms. Moskal observed the Student in school on March 26 and March 28, 2025. These two observations were not incorporated into the Reevaluation. On March 26, 2025, Ms. Schmidt and Ms. Moskal accompanied the Student to his classroom and observed him in his math class.³³² Ms. Schmidt did not witness the Student show any reluctance to enter the classroom or attend class. The Student asked questions of his teacher and his peers independently during class, without prompting from the teacher. Ms. Schmidt found his interactions to be appropriate for his age.³³³ Ms. Moskal did not witness the Student have any difficulty transitioning to the classroom and she did not see a display of any of the indicators of anxiety that she had seen in previous years.³³⁴

153. During her observation of the Student on March 26, 2025, Ms. Schmidt did not witness the Student picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.³³⁵ The Student did not exhibit any difficulties participating in the class's activities during the classroom observation.³³⁶

³²⁷ D15 pp12-13.

³²⁸ D15 p20.

³²⁹ D1 p28; D15 p13.

³³⁰ T220.

³³¹ T220.

³³² D2 p3; T220; T278.

³³³ T221.

³³⁴ T278-279.

³³⁵ T221-222.

³³⁶ T222.

154. On March 28, 2025, Ms. Schmidt again accompanied the Student to his classroom and observed him in his math class.³³⁷ During her observation of the Student on March 28, 2025, Ms. Schmidt did not witness the Student picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.³³⁸ Ms. Schmidt observed the Student smiling both before and after class.³³⁹

155. Ms. Neyenhouse observed the Student on either March 26 or March 28 when the Mother picked him up. Ms. Neyenhouse recalled that the Student appeared happy and asked his mother, “Do I have to go?”³⁴⁰

156. The Mother’s recollection of the March 28, 2025 observation is that the Student was eager to leave the building.³⁴¹

157. In between the March 26 and March 28, 2025 return to school for the Student, the Mother noticed at home the Student was having trouble wearing clothes or having anything touch his body.³⁴²

158. During her observations of the Student at home, at the District office, and at school, Ms. Schmidt did not observe any behaviors that would interfere with the Student attending school.³⁴³ Based on what the Parents reported to her, Ms. Schmidt believed the Student’s behavior before going to school, including crying on the floor, did not prevent his attendance. Ms. Schmidt determined that an expectation of school attendance was not part of the family’s morning routine.³⁴⁴

159. The final reevaluation report includes dated signatures by each professional member of the reevaluation team, except the general education teacher, certifying that the report represents his or her conclusion.³⁴⁵ The general education teacher signed separately.³⁴⁶

160. Through emails dated March 24 through March 28, 2025, the District and the Parents worked to find a date for the meeting to discuss the Reevaluation.³⁴⁷ By

³³⁷ D2 p4; T222.

³³⁸ T223.

³³⁹ D2 p4; T223.

³⁴⁰ T58.

³⁴¹ T497.

³⁴² T497.

³⁴³ T224.

³⁴⁴ T260.

³⁴⁵ D1 p10; D57.

³⁴⁶ D15 p9.

³⁴⁷ D53-D55.

emails to the Parents dated March 24, 2025, Ms. Neyenhouse attempted to confirm a reevaluation meeting scheduled for the next day and offered an alternative if that date did not work. She also reminded the Parents to complete the Parent questionnaires.³⁴⁸ In an email to the Parents dated March 26, 2025, Ms. Joiner noted that the Student's evaluation would be due the following day.³⁴⁹ In her email, Ms. Joiner requested that the Parents return the BRIEF-2 parent questionnaire by March 28, 2025, noting that the forms had been resent and were important to the reevaluation.^{350, 351} Because school staff was not available when Parents were free to meet (March 26 or March 28), and Spring break took place March 31 through April 4, 2025, the team agreed to meet on April 8, 2025.³⁵²

2025 Reevaluation Meeting

161. On April 8 and April 10, 2025, the reevaluation team met to review reevaluation reports and discuss the Student's eligibility for special education services.³⁵³ The team reviewed the Reevaluation at the April 8 meeting, but ran out of time.³⁵⁴ The Parents reported to the team during the April 8 meeting that the family planned to have the Student screened/evaluated for Autism and that the Student had developed a rash that made clothing uncomfortable.³⁵⁵ Notes from the April 8 meeting report that, "The family has kept [Student] home due to their belief that his social-emotional wellbeing is being impacted because of his current grade level placement."³⁵⁶

162. At the April 10, 2025 meeting, participants for the District included Mr. Baskette, special education teacher Emily Dignan, a general education teacher, Ms. Joiner, SLP Ms. Straub, OT Ms. Bosser, and Tiffany Gould.³⁵⁷ The Parents and their advocate, Dolcie Niemi, participated in the meeting, but did not sign the group signature page.³⁵⁸ Ms. Joiner ran the April 10, 2025 team meeting to discuss the

³⁴⁸ D53.

³⁴⁹ D3 p2.

³⁵⁰ D3 p2; D15 pp16-17.

³⁵¹ The Parents returned the form on April 7. D1 p26.

³⁵² D1 p29.

³⁵³ D1 p1; D3; D4.

³⁵⁴ D15

³⁵⁵ D1 p30.

³⁵⁶ D53 p30

³⁵⁷ D1 p10; D15 p9.

³⁵⁸ D1 p10; D15 p9.

2025 Reevaluation.³⁵⁹ Ms. Joiner is trained to be able to interpret the results of an evaluation and lead a team towards a decision.³⁶⁰

163. Based on the results of the 2025 Reevaluation, the team determined the Student was no longer eligible for special education services.³⁶¹ The team determined that, although the Student has a disability, the Reevaluation results do not show that the disability impacts the Student's education or that he has a need for SDI.³⁶²

164. As part of the 2025 Reevaluation, school psychologist Ms. Joiner provided the following summary of the Student's qualifications and functioning:³⁶³

- Student was 83-100% accurate with his speech and sounds. Student's speech sound errors do not cause frequent communication breakdowns or require repeated clarification and do not interfere with his ability to access and engage in the general education curriculum;
- Student showed an elevated score in the home setting for anxiety, and slight elevations for depression, social skills, adaptability, emotional control and shift (ability to move from one thing to another). Student was rated to have difficulties at school in the area of withdrawals and slight difficulties with social skills; and
- Student's overall behavioral index was rated "At-Risk" (slightly elevated) at school and "Average" in the home setting. His executive functioning skills were rated "Average" in school and "At-Risk" in the home setting.

165. The Parents and their advocate disagreed with the decision to discontinue the Student's IEP and refer him to the Section 504 team.³⁶⁴ When asked by other team members what SDI the Parents would recommend for the Student, the Parents suggested smaller class sizes with less noise, and help with making friends at school.³⁶⁵ According to Ms. Joiner, these suggestions from the Parents are considered IEP accommodations, not SDI.³⁶⁶

³⁵⁹ D15 p7.

³⁶⁰ D15 p16.

³⁶¹ D1 p8; D6 p1.

³⁶² D1 p8; D6 p1; D15 p30.

³⁶³ D1 p8; D15 p8.

³⁶⁴ D1 p30.

³⁶⁵ D6 p1; D15 p23.

³⁶⁶ D15 p23.

166. The Reevaluation gathered data in areas associated with autism, specifically the Student's peer interactions and social communication, anxiety, and sensory processing.³⁶⁷ Ms. Joiner does not believe an autism diagnosis at the time of the Reevaluation would have changed the team's decision that the Student did not qualify for SDI.³⁶⁸

167. The Parents also reported on April 10 that a medical doctor determined that the Student can no longer attend school in person. The Parents did not share documentation reflecting this determination made by the physician.³⁶⁹ According to Ms. Joiner, the team mentioned during the meeting that, upon receiving documentation from the physician, they could create a plan for the Student to receive his education. Shortly after this, the Parents and their advocate left the meeting.³⁷⁰

168. The data gathered as part of the Reevaluation did not indicate to the team that the Student was incapable of participating in general education at his grade level or that being at school was negatively impacting the Student's social/emotional well-being.³⁷¹ At the time of the Reevaluation, the team did not have data showing the Student could not attend school or that home instruction was his least restrictive environment.³⁷² Based on the reevaluation, when he was at school, the Student did not demonstrate "anxiety-type" behaviors or deficits in emotional regulation or coping skills at a level that would impede his attendance at school or prevent him from participating in learning.³⁷³

169. The Parents disagreed with the team's decision. The Mother believed the Student was experiencing a serious medical condition, not an "optional" behavior and that he required SDI.³⁷⁴ The Parents believe the Student was "masking" at school in order to fit in and not draw attention to himself. According to the Mother, "He spent all day hiding who he was and then he would get home and just fall apart."³⁷⁵

170. Ms. Neyenhouse, Ms. Gutierrez, Ms. Schmidt, Ms. Moskal, and Ms. Carr are all familiar with masking, each describing it variously as a coping strategy in which one exhibits expected behaviors in a social context in order to fit in and conform to societal norms. All of them acknowledged that, if the Student had been successfully masking

³⁶⁷ D15 pp25-26.

³⁶⁸ D15 p26.

³⁶⁹ D1 p30; T56.

³⁷⁰ D15 p15.

³⁷¹ D15 pp26-27.

³⁷² D15 p24; T94-95; T156; T189; T298.

³⁷³ D15 p24; T94.

³⁷⁴ T501, 504.

³⁷⁵ T501-502.

his feelings at school, it would be difficult to know he was masking and to identify what he was feeling internally.³⁷⁶

171. In an email to the Parents and the rest of the IEP team, dated April 15, 2025, Ms. Gould acknowledged that the Parents filed their Complaint on April 11, 2025.³⁷⁷ In her email, Ms. Gould noted that if the Parents could provide documentation from a licensed provider showing the Student is unable to attend school, the District would work with them to arrange in-home options for services.³⁷⁸ Medical documentation is required for in-home hospital services.³⁷⁹

172. By PWN dated April 11, 2025, the IEP team proposed initiating stay-put status of the Student's IEP.³⁸⁰

173. By PWN issued April 15, 2025, the IEP team proposed to discontinue the Student's IEP.³⁸¹ The team based the decision to discontinue the IEP on:³⁸²

Review of Existing Data; Behavior Assessment System for Children, Third Edition; Behavior Rating Inventory of Executive Functioning, Second Edition; Sensory Processing Measure, Second Edition; Communication Data Review; parent input; teacher input; student interview; observation; professional team decision.

174. The team recommended that the Student be referred to the Section 504 team to determine if a 504 plan is appropriate for the Student.³⁸³

175. By email dated April 21, 2025, Ms. Niemi provided Ms. Gould with a letter from Allison Meade, PNP at Vancouver Clinic.³⁸⁴ In the letter, dated April 21, 2025, Ms. Meade wrote the following:³⁸⁵

[The Student] is struggling with extreme anxiety and physical complications. He is regularly seeing his psychologist and therapist, as well as several other specialists, including a pending referral to peds neurology. Despite these interventions, he is really unable to leave the

³⁷⁶ T90, T180-181, T252-253, T285-286, T452.

³⁷⁷ D58 p1.

³⁷⁸ D58 p1.

³⁷⁹ T328.

³⁸⁰ D58.

³⁸¹ D1 p29.

³⁸² D1 p29.

³⁸³ D1 p9, p30.

³⁸⁴ D59.

³⁸⁵ D59 p2.

home, both for school and extra-curricular activities. I recommend in-home education while [the Student] and his family are working through this. We hope this will be a short-term problem, but may likely persist through the remainder of this school year.

176. The record shows that PNP Meade's April 21 letter is the only correspondence from medical providers that the Parents shared with the District during the 2024-2025 school year.

177. There is no evidence in the Student's medical records showing that PNP Meade met with the Student virtually or in-person after writing her March 11, 2025 letter and before composing her April 21 letter.³⁸⁶ The records do not reflect a medical reason the Student could not attend school during the 2024-2025 school year.³⁸⁷ The Student's medical records include letters from private providers recommending a gradual exposure return to school.³⁸⁸

178. By letter dated April 21, 2025, child psychiatrist Anca Balasu, MD, confirmed the Student's diagnoses of generalized anxiety disorder, ADHD, and sensory integration dysfunction.³⁸⁹ Dr. Balasu recommended accommodations for the Student that "reflect a gradual exposure model to allow him an appropriate return to full-time in-person school attendance."³⁹⁰ Dr. Balasu recommended a return to the classroom consisting of shortened two-hour days with a paraeducator and a reward program to promote attendance and appropriate behaviors.³⁹¹ Dr. Balasu also offered to connect with the school's psychologist to discuss a collaborative plan to promote the Student's return to school.³⁹²

179. The Mother does not recall how the District received a copy of Dr. Balasu's April 21 letter, but she believes the Vancouver Clinic shared a copy with the District.³⁹³ The Parents themselves did not provide the District with a copy of Dr. Balasu's April 21 letter prior to the end of the 2024-2025 school year.³⁹⁴ The Parents did not authorize any person from the District team to connect with Dr. Balasu.³⁹⁵

³⁸⁶ D74; T332.

³⁸⁷ D74; T335.

³⁸⁸ D60; D74; T338.

³⁸⁹ D60.

³⁹⁰ D60.

³⁹¹ D60.

³⁹² D60.

³⁹³ T506-507.

³⁹⁴ T332.

³⁹⁵ T333.

180. A gradual exposure model, a shortened day with paraeducator support, and a reward program are all accommodations, rather than SDI.³⁹⁶

181. By email dated April 29, 2025, Ms. Gould provided the Parents and their advocate a copy of the Reevaluation Report, a corrected April 15, 2025 PWN, and a copy of the FBA parent functional assessment questionnaire for completion.³⁹⁷ Ms. Gould noted that the FBA remained open without the completed parent functional assessment questionnaire.³⁹⁸ The District had provided the Parents with a blank questionnaire on March 21, 2025, and April 9, 2025.³⁹⁹ Ms. Gould asked the Parents to return the questionnaire by May 1, 2025.⁴⁰⁰

182. The Parents did not return the completed FBA parent functional assessment questionnaire before the end of the 2024-2025 school year.⁴⁰¹

183. In her April 29 email, Ms. Gould also acknowledged receiving PNP Allison Meade's April 21, 2025 letter and informed the Parents that the team was unclear as to the reason the Student could not attend school.⁴⁰² Ms. Gould included a release of information form in her email so the team could gather additional context and understand why the provider believed a return to school was medically inappropriate.⁴⁰³ The Parents did not return a signed copy of the release.

184. By email dated April 29, 2025, Ms. Niemi informed Ms. Gould that the Parents would not attend an FBA review meeting scheduled for May 2, 2025, and would "not be responding to additional requests or taking further action at this time without direction from legal counsel."⁴⁰⁴

185. On April 30, 2025, Ms. Straub emailed the Parents in an attempt to schedule speech services.⁴⁰⁵ In response, Ms. Niemi wrote that the Parents⁴⁰⁶

will not be responding to or participating in any school-related matters for [the Student] at this time, pending guidance from their attorneys. This includes scheduling or confirming services. Counsel for both the

³⁹⁶ T300; T333.

³⁹⁷ D61; T334.

³⁹⁸ D61 p1.

³⁹⁹ D56; D61 p1; T225.

⁴⁰⁰ D61 p1.

⁴⁰¹ T225; T336.

⁴⁰² D61 p1.

⁴⁰³ D61 p1, p8.

⁴⁰⁴ D62.

⁴⁰⁵ D63.

⁴⁰⁶ D63 p1.

family and the district will clarify when the process for scheduling services should resume.

186. The Parents did not contact Ms. Straub to schedule communication services for the Student in Spring 2025. Ms. Straub was available and willing to provide SLP services to the Student in that period.⁴⁰⁷ Ms. Straub was prepared to provide services via Zoom, but did not offer to provide communication services in the Student's home.⁴⁰⁸ When the Mother offered communication services via Zoom to the Student, "he absolutely refused."⁴⁰⁹

187. Ms. Straub reached out to the Parents again in emails dated September 3, and September 29, 2025, in an effort to schedule communication services in person or virtually.⁴¹⁰ There is no evidence the Parents responded to these emails.

Student Progress and Attendance in 2024-2025

188. An IEP Progress Report dated January 15, 2025, shows that the Student made sufficient progress toward achieving his annual communication goal on reviews dated November 18, 2024, March 7, 2025, and June 4, 2025.⁴¹¹ Based on the Student's progress, Ms. Straub believes he would have met his communication IEP goal by the end of the 2024-2025 school year if he had continued accessing communication services.⁴¹²

189. Attendance records show the Student was absent the following dates during the 2024-2025 school year:⁴¹³

September 2024 (5 days) 9/6, 9/9, 9/13, 9/19, 9/20

October 2024 (5 days) 10/1, 10/7, 10/14, 10/22, 10/29

November 2024 (4 days) 11/5, 11/6, 11/12, 11/19

December 2024 (3 days) 12/11, 12/16, 12/17

January 2025 (2 days) 1/10, 1/27

February 2025 (15 days) 2/4, 2/5, 2/6, 2/7, 2/10, 2/11, 2/12, 2/18, 2/20, 2/21, 2/24, 2/25, 2/26, 2/27, 2/28

⁴⁰⁷ T130.

⁴⁰⁸ T143.

⁴⁰⁹ T509.

⁴¹⁰ D71.

⁴¹¹ D64.

⁴¹² T130-131.

⁴¹³ D65.

March 2025 (19 days) 3/3, 3/4, 3/5, 3/6, 3/10, 3/11, 3/12, 3/13, 3/14, 3/17, 3/18, 3/19, 3/20, 3/21, 3/24, 3/25, 3/26, 3/27, 3/28

April 2025 (4 days) 4/7, 4/8, 4/9, 4/11

190. The Student did not return to school after March 28, 2025. According to the Mother, “his sensory sensitivity just blew up.” He complained of itching and skin burning and he was screaming in pain. He could not sleep because he could not tolerate sheets touching his body. The carpet hurt his feet, and the feel of the sofa hurt his skin. “It just got really bad really fast.”⁴¹⁴ After this, the Mother stopped checking in with the Student daily about attending school. He was in so much pain that the Mother believed “school wasn’t even an option.”⁴¹⁵

191. Between February 2025 and the end of the school year, the Mother was providing educational support to the Student at home through science experiments, watching videos, baking/cooking, nature walks, and audio books.⁴¹⁶ The Parents incurred expenses in providing the educational services.⁴¹⁷

192. At South Ridge Elementary, a grade “4” reflects that a student is above grade level; a “3” shows the student is at standard for the grade; and a “2” reflects that the student is approaching the grade-level standard.⁴¹⁸

193. In the first trimester of the 2024-2025 school year (September through the end of November), the Student’s math grades were all 3s and one 4.⁴¹⁹ In the second trimester (December through March), the Student earned 3s and 4s in math.⁴²⁰

194. In the first and second trimesters of 2024-2025, in ELA, the Student earned 3s and 4s, with two 2s.⁴²¹

195. In the first and second trimesters of 2024-2025, in HD Word (the phonological phonics curriculum), Student earned mostly 3s, three 2s, and one 4.⁴²²

⁴¹⁴ T498-499.

⁴¹⁵ T499.

⁴¹⁶ T509-510.

⁴¹⁷ T510

⁴¹⁸ D16 p39.

⁴¹⁹ D13 p1; D16 pp38-39.

⁴²⁰ D13 p2; D16 p39.

⁴²¹ D13 pp4-6; D16 p41.

⁴²² D13 pp7-8; D16 p42.

196. During his time in second grade in the District, the Student never failed to meet the academic standards for second grade.⁴²³ Prior to the time Student stopped attending school in the District in early 2025, Ms. Orloff did not observe any change in the Student's performance in school or in his demeanor.⁴²⁴

2025-2026 School Year

197. By email dated August 19, 2025, Tawny Malone, the new principal of South Ridge Elementary, welcomed the Student back to school and asked to schedule a meeting to discuss the Student's outstanding FBA and discuss ways to support him in the third grade.⁴²⁵

198. Via email to Ms. Malone dated September 9, 2025, the Mother returned the completed FBA parent functional assessment questionnaire. She also reported that she did not have a set timeline for the Student's return to school without District supports, and that the Student refused to participate in virtual speech sessions.⁴²⁶

199. On the parent functional assessment questionnaire, the Parents reported the following:⁴²⁷

- When stressed, [the Student] experiences severe itching, an inability to tolerate loud noises, an inability to utilize coping skills, an inability to do anything, crying, and an inability to tolerate clothing or touch. He also experiences high levels of anxiety and depression, especially anything related to his neighborhood school and staff. These symptoms directly interfere with his ability to engage in daily routines, both preferred and not preferred activities, including attending school or even discussing attending school.
- The Student's behavior occurs daily, lasting between 20 minutes and several hours.
- The Student's behaviors occur when transitioning to or during school, any discussion related to his school, or when engaging in stressful or overwhelming activities, when he is overwhelmed, or

⁴²³ D16 pp43-44.

⁴²⁴ D16 p44.

⁴²⁵ D66 p4.

⁴²⁶ D66 p3.

⁴²⁷ D67.

has already been triggered by any discussions or thoughts of school and then a small amount of stress or demand is put on him.

200. In a letter dated September 25, 2025, PNP Allison Meade restated the Student's diagnoses and wrote that, based on the family's report that the Student was unable to leave the house for school, she recommended in-home education.⁴²⁸ The record does not show whether the District received a copy of Ms. Meade's September 25 letter.

Functional Behavior Assessment

201. On September 26, 2025, the Parents participated in a meeting to discuss the Student's FBA and his return to school.⁴²⁹ Ms. Gould and Ms. Heim attended the meeting.⁴³⁰ The record does not show who else from the District participated in that meeting.⁴³¹

202. Ms. Schmidt prepared the FBA.⁴³² The FBA analyzed information and data related to the Student's behaviors. The target behaviors to address, per the Parents' report, were school refusal, described as "'an inability to leave the house,' possibly accompanied by crying and/or scratching himself."⁴³³ The FBA was based on observations performed by the BCBA and/or the school psychologist on March 21, March 26, and March 28, 2025, as well as the FBA questionnaire provided by the Parents on September 9, 2025.⁴³⁴ During the observations by the BCBA and the school psychologists, no District observer witnessed the target behaviors reported by the Parents.⁴³⁵

203. It is South Ridge Elementary School's practice to rely on direct observation of the target behavior or a review of a video capture of the behavior in order to perform an FBA.⁴³⁶ Because no District employee observed the target behaviors, Ms. Schmidt only had the Parents' completed questionnaire to complete the FBA.⁴³⁷ Ms. Schmidt did not believe it was advisable to rely exclusively on Parents' reports and observations to assess the Student's behavior (specifically, to determine the setting

⁴²⁸ P24.

⁴²⁹ D66 p1; D68 p1.

⁴³⁰ D69 pp5-6; T300.

⁴³¹ D66 p1.

⁴³² D69; T226.

⁴³³ D69 p7.

⁴³⁴ D69 p12.

⁴³⁵ D69 pp5-6.

⁴³⁶ D69 p9; T258; T316.

⁴³⁷ T227.

event, antecedent, alternative replacement behavior, maintaining consequence, and function).⁴³⁸ According to Ms. Schmidt,⁴³⁹

in order to make good recommendations for identifying replacement behaviors, it's really important to identify what is happening before and after. And since the parents are involved in the routine, it would be difficult for their own report to take into account all the things going on in the environment. Sometimes an outside observer can pick up on patterns that might not be seen by the person engaging with the student.

204. The BCBA offered to incorporate information from the Student's medical records (specifically recommendations from Dr. Balasu for a "gradual exposure model" to allow a return to full-time in-person school attendance); to observe the Student in the home when the behavior occurred; and to review video of the behavior captured by the Parents. The Parents declined these options.⁴⁴⁰

205. By PWN dated September 29, 2025, the team refused to recommend interventions for the target behavior because the BCBA and school psychologists did not observe behaviors that interfered with the Student's access to his educational setting or curriculum.⁴⁴¹ The team proposed a Student reentry plan that included a gradual exposure model per the recommendation of Student's psychiatrist with two hours per day of para support and a reward program.⁴⁴²

206. The Mother disagreed with the results of the FBA and lack of a BIP. She believed the Student had several medical conditions that were preventing him from attending school and thought the District did not believe that.⁴⁴³

207. On September 30, 2025, Ms. Gould emailed the Parents with options to assist the Student with a safe and successful return to school, noting that the District considered the recommendations from Dr. Balasu: a gradual exposure model, shortened two-hour days with a paraeducator, and a reward program.⁴⁴⁴ The four options proposed for the Student were:⁴⁴⁵

⁴³⁸ D69 p9; T258.

⁴³⁹ T259.

⁴⁴⁰ D69 p11; T227-228; T301.

⁴⁴¹ D69 p11-13.

⁴⁴² D69 p12.

⁴⁴³ T523.

⁴⁴⁴ D66 p1.

⁴⁴⁵ D66 pp1-2.

- **Option 1 – Gradual Return to School**

- o Start with **2-hour school days** (specific time determined by the team), with a designated adult to support such as a paraeducator, counselor, or Connection Center mentor.
- o Regularly review progress and increase time at school until a full day is reached.

Calm Arrival Plan:

- o Daily check-in and check-out with a designated adult. They will greet [the Student] at the office when he is dropped off and return him to the office for pick up each day.
- o Support for anxiety, including a safe place in the classroom, check-in station, and break passes to visit the designated adult, a counselor, nurse, or calm space if needed.
- o Collaboration with medical providers to adjust supports and accommodations.

Classroom Integration & Positive Reinforcement:

- o Teacher/Counselor will provide **gradual participation opportunities**, such as having a small social group that share the same interests as [the Student],
- o Classroom teacher will include multiple ways to engage and show understanding – such as advanced reading materials, higher level questions during group discussion, problem-solving tasks, or creative products.
- o A **personalized reward system** will be implemented to encourage attendance and positive classroom behaviors (e.g., earning small prizes, privileges, or recognition for meeting daily/weekly goals).

- **Option 2 – Hybrid Model (Ridge Connect Homeschool)**

- o Attend **in-person for part of the day** and complete remaining academic instruction through Ridge Connect’s homeschool program.

- **Option 3 – Full-Time Ridge Connect Homeschool**

- o Enroll in **Ridge Connect Homeschool full time**, completing all instruction at home while remaining connected to district resources and support.

- **Option 4 – Full-Time Virtual School (Wisdom Ridge Academy)**

- o Enroll in **Wisdom Ridge Academy**, our fully online virtual learning option.

208. In an email dated October 14, 2025, the District's legal counsel asked the Parents' counsel to provide options for the District to observe the Student's school refusal behavior, which had not been observed by the District in previous observations of the Student.⁴⁴⁶ Parents' counsel agreed that the District could observe the Student at the same time as the family's IEE provider.⁴⁴⁷ The Parents' counsel did not provide the District with an opportunity to observe the Student with the IEE provider.⁴⁴⁸

209. On October 13, 2025, the Parents submitted a Choice Transfer form in which they requested that the Student be permitted to transfer from South Ridge Elementary to Salmon Creek Elementary School in the Vancouver School District.⁴⁴⁹ The Choice Transfer was accepted with a start date of October 20, 2025.⁴⁵⁰

Independent Educational Evaluation of Dr. Lionel Enns

210. Over October 22, November 5, and November 9, 2025, Dr. Lionel Enns performed an IEE of the Student. The Parents incurred an expense of \$8,400 for this service.⁴⁵¹

211. Dr. Enns is a licensed clinical psychologist in Washington state, a nationally certified school psychologist, and a nationally and state certified BCBA, doctorate level (BCBA-D). He is also a nationally certified mental health forensic evaluator.⁴⁵² He acquired his Ph.D. and BCBA-D from the University of Washington.⁴⁵³

212. Dr. Enns began conducting evaluations of students in 2009 as a school psychologist and in 2012 performed IEEs as a licensed clinical psychologist. He performs approximately 40–50 IEEs and FBAs per year.⁴⁵⁴

213. As part of the IEE, Dr. Enns observed the Student at home. During the home visit, Dr. Enns observed the Student and his Mother performing education work; he performed cognitive, neuropsych, and educational testing with the Student; he performed questionnaire-based assessments with the family; and he performed an autism diagnostic interview with the Student.⁴⁵⁵

⁴⁴⁶ D70.

⁴⁴⁷ D70.

⁴⁴⁸ T341.

⁴⁴⁹ D72.

⁴⁵⁰ D72.

⁴⁵¹ P29 p40; T517.

⁴⁵² P30; T537-538.

⁴⁵³ T538.

⁴⁵⁴ T539.

⁴⁵⁵ T542.

214. Dr. Enns did not review the Student's 2025 Reevaluation as part of his IEE. He did not have access to the Student's school records, and he did not have any forms or questionnaires completed by the Student's teachers in the District.⁴⁵⁶ Dr. Enns did not have information from the Student's teachers about the Student's behaviors in the classroom setting.⁴⁵⁷ Dr. Enns did not review records from the Student's medical providers.⁴⁵⁸ The only record reviewed by Dr. Enns was the intake questionnaire completed by the Parents.⁴⁵⁹

215. While Dr. Enns acknowledged in his testimony that masking could explain a disconnect between what staff saw from the Student at school and what the Parents saw at home, Dr. Enns did not specifically state that the Student was masking at school.⁴⁶⁰

216. The only mention in Dr. Enns's report of the Student masking are references to the Mother reporting the Student's tendency to mask.⁴⁶¹ Dr. Enns notes in his report that no area of the Student "internalizing" (directing emotional and behavioral responses inward) breached clinical significance.⁴⁶² In his report, Dr. Enns concludes that "there was significant divergence between the two reports, in that [Mother] reported elevated internalizing measures, while [Student] only noted an aversion to school."⁴⁶³

217. Regarding the Student's attitude to school, the Student reported to Dr. Enns that, "I don't like thinking about school; school is often boring; I sometimes hate school; my school sometimes feels good to me; I can't wait for school to be over."⁴⁶⁴

218. Dr. Enns diagnosed the Student with Autism Spectrum Disorder, Level 1; ADHD; and Generalized Anxiety Disorder. He also concluded the Student has profound intellectual giftedness.⁴⁶⁵

⁴⁵⁶ T571-572, 577.

⁴⁵⁷ R573

⁴⁵⁸ T579.

⁴⁵⁹ T578.

⁴⁶⁰ T562-563.

⁴⁶¹ P28 p2, p4, p5.

⁴⁶² P28 p12.

⁴⁶³ P28 p12.

⁴⁶⁴ P28 p12.

⁴⁶⁵ P28 p21.

CONCLUSIONS OF LAW

Jurisdiction

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).

Burden and Standard of Proof

2. The IDEA is silent as to which party bears the burden of proof in the due process hearing. In *Schaffer v. Weast*, 546 U.S. 49, 51 (2005), the United States Supreme Court considered this issue and held that “the burden lies, as it typically does, on the party seeking relief.” In Washington state, the legislature recently enacted a law that places the burden of proof on school districts in due process hearings. Senate Bill 5883 (SB 5883), which adds a new section to RCW 28A.155, was signed by Governor Jay Inslee on March 13, 2024, and took effect on June 6, 2024.

3. The U.S. Supreme Court and Washington courts have generally held that the standard of proof in an administrative proceeding is a preponderance of the evidence.⁴⁶⁶ Therefore, the District’s standard of proof in this matter is preponderance of the evidence.

The IDEA and FAPE

4. 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.”⁴⁶⁷

5. 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

⁴⁶⁶ *Steadman v. SEC*, 450 U.S. 91, 102 (1981); *Thompson v. Dep’t of Licensing*, 138 Wn.2d 783, 797 (1999); *Hardee v. Dep’t of Social & Health Services*, 172 Wn.2d 1, 4 (2011).

⁴⁶⁷ *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 200-201 (1982).

question is whether the individualized education program developed under these procedures is reasonably calculated to enable the child to receive educational benefits. “If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.”⁴⁶⁸

6. 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.⁴⁶⁹ 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.⁴⁷⁰

7. “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.”⁴⁷¹ 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.⁴⁷² The “essential function of an IEP is to set out a plan for pursuing academic and functional advancement.”⁴⁷³ Accordingly, an IEP team is charged with developing a comprehensive plan that is “tailored to the unique needs of a particular child.”⁴⁷⁴ Additionally, the student’s “educational program must be appropriately ambitious in light of his circumstances . . .”⁴⁷⁵

Independent Educational Evaluations (IEEs)

8. Parents have a right to obtain an IEE if they disagree with a school district’s evaluation of their child, under certain circumstances.⁴⁷⁶ An IEE is an evaluation

⁴⁶⁸ *Rowley*, 458 U.S. 176 at 206-07.

⁴⁶⁹ *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir. 2001).

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

⁴⁷¹ *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 137 S. Ct. 988, 999, 197 L. Ed. 2d 335 (2017).

⁴⁷² *Id.*

⁴⁷³ *Id.*

⁴⁷⁴ *Id.* at 1000.

⁴⁷⁵ *Id.*

⁴⁷⁶ WAC 392-172A-05005; 34 CFR 300.502(a)(1).

conducted by a qualified examiner who is not employed by the school district, at district expense.⁴⁷⁷ If a parent requests an IEE, a district must either ensure that an IEE is provided at no cost to the parent without unnecessary delay or initiate a due process hearing within 15 calendar days to show that the district's evaluation is appropriate.⁴⁷⁸

9. If the district initiates a due process hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to obtain an IEE but not at public expense.⁴⁷⁹

Evaluations

10. Evaluations and reevaluations must comply with the requirements in WAC 392-172A-03020. In conducting the evaluation, a "group of qualified professionals selected by the school district" must use a "variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent . . ." ⁴⁸⁰ The group must not use any single measure or assessment as the sole criterion for determining eligibility or educational programming and must use technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical, and developmental factors.⁴⁸¹ School districts must ensure assessments and evaluation materials are selected and administered so as not to be discriminatory on a racial or cultural basis, and are provided and administered in the student's native language.⁴⁸²

11. Assessments must be administered by "trained and knowledgeable personnel" and "in accordance with any instructions provided by the producer of the assessments." Students must be assessed "in all areas related to the suspected disability" and the evaluation must be "sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified."⁴⁸³

12. Under WAC 392-172A-03025, as part of any evaluation or reevaluation, the team must review existing data on the student, including evaluations and information provided by the parents, current classroom-based, local, or state assessments,

⁴⁷⁷ WAC 392-172A-05005(1)(c)(i); 34 CFR 300.502(b).

⁴⁷⁸ WAC 392-172A-05005(2)(c).

⁴⁷⁹ WAC 392-172A-05005(3).

⁴⁸⁰ WAC 392-172A-03020(2)(a).

⁴⁸¹ WAC 392-172A-03020(2)(b) and (c).

⁴⁸² WAC 392-172A-03020(3)(a); see *also* 34 CFR §300.304.

⁴⁸³ WAC 392-172A-03020(3); see *also* 34 CFR §300.304(c).

classroom-based observations, and observations by teachers and related services providers.

13. Additionally, the District must prepare and provide the parents with an evaluation report.⁴⁸⁴ The evaluation report must include, among other things, a statement of whether the student has a disability that meets applicable eligibility criteria, a recommendation as to what special education and related services the student needs, and the date and signature of each professional member of the group certifying that the evaluation report represents his or her conclusion.⁴⁸⁵

14. After the “administration of assessments and other evaluation measures,” the parent of the student and qualified professionals “determine whether the student is eligible for special education and the educational needs of the student.”⁴⁸⁶

15. A school district has thirty-five school days to complete an evaluation after it receives written consent to evaluate from the parent.⁴⁸⁷ A school district and a parent may agree to a different time period for completing the evaluation and may agree to extend the timeline for completing the evaluation.⁴⁸⁸

16. The IDEA does not give Parents the right to dictate the areas in which a school district must assess a student as part of a special education evaluation.⁴⁸⁹ Further, “[s]chool districts have discretion in selecting the diagnostic tests they use to determine special education eligibility.”⁴⁹⁰

17. Not all procedural flaws require a finding of a denial of IDEA rights.⁴⁹¹

⁴⁸⁴ WAC 392-172A-03035.

⁴⁸⁵ WAC 392-172A-03035(a), (d) and (f).

⁴⁸⁶ WAC 392-172A-03040(1)(a).

⁴⁸⁷ WAC 392-172A-03015.

⁴⁸⁸ WAC 392-172A-03015.

⁴⁸⁹ See *Letter to Unnerstall*, 68 IDELR 22 (OSEP 2016); *L.C. v. Issaquah Sch. Dist.*, 2019 U.S. Dist. LEXIS 77834, 2019 WL 2023567 (W.D. Wash 2019)(citing *Avila v. Spokane Sch. Dist.* 81, 686 F. App'x 384, 385 (9th Cir. 2017)), *aff'd sub nom. Crofts v. Issaquah Sch. Dist. No. 411*, 2022 U.S. App. LEXIS 907 (9th Cir. 2022).

⁴⁹⁰ *E.M. v. Pajaro Valley Unified Sch. Dist.*, 652 F.3d 999, 1003 (9th Cir. 2011), citing *Ford v. Long Beach Unified Sch. Dist.*, 291 F.3d 1086, 1088-89 (9th Cir. 2002).

⁴⁹¹ *Ford v. Long Beach Unified Sch. Dist.*, 291 F.3d 1086, 1089 (9th Cir. 2002); *W.G. v. Bd. of Trustees of Target Range Sch. Dist.*, 960 F.2d 1479, 1484 (9th Cir.1992); *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 892 (9th Cir.2001).

18. Autism is defined as⁴⁹²

a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Issues 1 and 2b: Whether the District's most recent evaluation of the Student was appropriate and Whether the District failed to conduct a full and individual evaluation in all areas of suspected disability, including the student's significant mental health challenges (anxiety and depression) and their impact on educational access.

The District's 2025 Reevaluation was appropriate, and the District conducted a full and individual evaluation in all areas of suspected disability impacting the Student's education.

19. When Parents raised new concerns regarding the Student's anxiety in December 2025, the District responded by initiating a Reevaluation. Before the District reevaluated the Student, it obtained the Parents' consent to reevaluate and sent a PWN to the Parents stating that it was planning to reevaluate the Student in accordance with the referral and consent.⁴⁹³

20. The District has shown that its reevaluation was conducted by a group of qualified professionals with the necessary education, training, and experience. Ms. Gutierrez is a highly qualified and experienced school psychologist, as is Ms. Joiner, the psychologist who replaced Ms. Gutierrez during the reevaluation. Ms. Gutierrez has an education specialist degree in psychology, she is a licensed school psychologist, she worked as a school psychologist before joining the District and has worked as a school psychologist in the District for eight years. Ms. Joiner has a bachelor's degree in psychology and an education specialist degree in school psychology. She has been a school psychologist with the District for four years and has experience as a school psychologist prior to joining the District. Ms. Straub, who conducted the communication portion of the evaluation, has a bachelor's degree and a master's degree in speech and hearing sciences. She has eighteen years' experience as an elementary school SLP. Ms. Bossert has a bachelor's degree in family and child sciences and a master's degree in occupational therapy. She has

⁴⁹² WAC 392-172A-01035(2)(a)(i).

⁴⁹³ WAC 392-172A-05105(2).

almost ten years' experience as an OT, including three years working with medically fragile children.

21. The District has further established that the reevaluation assessed the Student in all areas of suspected disability. The evaluation included assessments in all areas to which the Parents consented: student observation, medical-physical, general education, communication, review of existing data, and social-emotional/behavior. The District then added the area of sensory in response to the Parents' concerns. Moreover, the District's evaluation assessed the Student's functioning in areas typically included in an evaluation to identify the educational impact of autism (social-emotional, communication, executive functioning, anxiety, and sensory). Finally, there is no evidence that the Parents or any District teachers or staff raised concerns that the Student needed to be assessed in any other areas.

22. In addition, the District used a variety of technically sound assessment tools and strategies to gather relevant information about the Student. In addition to standardized assessments and ratings scales (BASC-3, BRIEF-2, and SPM-2), the reevaluation included communication data review, Parents' input, teacher input, and Student interview. The reevaluation also included an observation of the Student.

23. Moreover, Ms. Gutierrez, and Ms. Bossert followed manufacturer instructions when administering the assessments and all assessments were administered in English, the Student's spoken language. Neither assessor had concerns that assessments administered as part of the evaluation discriminated against students of the Student's racial and cultural background.

24. Finally, the 2025 Reevaluation report satisfies the requirements of WAC 392-172A-03035. It includes a statement of whether the student has a disability that meets eligibility criteria; a discussion of the assessments and a review of data that supports the conclusion regarding eligibility; recommended services (a referral to the 504 team); a date and signature of each professional member of the group⁴⁹⁴ certifying that the evaluation report represents his or her conclusion; and the individuals contributing to the report document the results of their assessments or observations.

⁴⁹⁴ The general education teacher's signature is not included in the Reevaluation report. Any procedural defect based on the lack of her signature in the record does not impact the overall appropriateness of the Reevaluation.

Parents' Arguments

25. The Parents argue that the Reevaluation lacked sufficient speech data as well as Student self-reporting. The record does not support these claims. The Parents agreed to allow Ms. Straub to perform a record review to assess the Student's communication in lieu of an assessment. This was based on the Parent's advocate's request to avoid the assessment. Ms. Straub, an experienced SLP, believed it was appropriate to use existing data based on the Student's performance during their sessions and on teacher reports. There is no evidence that the Parents or any other team member objected to this record review. The evidence does not show that other communication assessments were requested or necessary for the Student. As for the lack of Student self-reporting, Ms. Gutierrez credibly testified that the BASC-3 student questionnaire is intended for students in the third grade or higher. Based on her experience and on the manufacturer's instructions, she declined to have the Student, a second grader, complete the questionnaire. Additionally, the team gathered self-reported data from the Student regarding school refusal by asking the Student questions from a school refusal assessment form. The communication portion of the Reevaluation and Student self-reporting were sufficiently comprehensive.

26. The Parents contend that the District improperly omitted an assessment for autism in the 2025 Reevaluation. They argue that the District had notice of suspected autism because, at the end of the April 8 meeting to discuss the completed Reevaluation, the Parents mentioned that they were considering a screening for autism, and because the March meeting notes identified the Student's sensory sensitivity, concerns about being different, and difficulty connecting with peers. Parents also argue that Dr. Enns's opinion after evaluating the Student confirms that the Student exhibited signs that should have prompted the District to conduct an autism assessment.⁴⁹⁵ The Parents' claims are not persuasive.

27. The Ninth Circuit Court of Appeals has recognized that school districts have discretion to select the assessments they use as part of an evaluation.⁴⁹⁶ The record establishes that Ms. Gutierrez, an experienced school psychologist, was thoughtful in determining which assessment tools to use in order to obtain complete information about the Student's skills and functioning. Additionally, Ms. Joiner, another qualified school psychologist, credibly testified that data gathered regarding the Student's peer interactions, social communication, anxiety, and sensory processing are all areas associated with autism. According to Ms. Joiner, an autism diagnosis would not have changed the team's decision that the Student did not qualify for SDI.

⁴⁹⁵ Parents' Post Hearing Brief p19.

⁴⁹⁶ *E.M.*, 652 F.3d 1003.

28. The evidence does not show that other assessments were either requested or necessary for the Student in order for the Reevaluation to be comprehensive. The fact that the Student may have had undiagnosed autism does not require the District to perform any specific tests as part of a reevaluation. Rather, Ms. Gutierrez and Ms. Bossert determined what assessments were necessary for the Student and Ms. Straub reviewed reliable communication data (with the approval of the Parents). The record shows the Reevaluation was sufficiently comprehensive in the collection and assessment of data associated with autism.

29. The Parents also argue the Reevaluation failed to meaningfully assess the Student in the area of school refusal by selecting a “preferred, low-demand context” for the observation portion of the Reevaluation and by failing to integrate the Parents’ reports of school-avoidance behaviors. The evidence in the record does not support these claims.

30. The Parents argue the District “relied on an observation least likely to elicit the target behavior.” They assert that the observation took place in an environment where the Student was “calm, next to his mother, and discussing preferred interests,” rather than attempting to assess the Student in a more problematic environment, such as home during morning school time.⁴⁹⁷ The Parents present a mischaracterization of the evidence in the record.

31. The record shows that Ms. Gutierrez specifically asked the Parents to allow her to schedule an observation at a time of day when the Student’s behaviors were most likely to occur. When planning a home observation, which was ultimately not used for the Reevaluation, the Mother offered a window of 9:30 a.m. to 2:00 p.m., noting the team was unlikely to see “significant behavioral episodes” during that visit. When arranging the observation for the Reevaluation, the Mother specifically requested that it take place in a District office, and not at the Student’s school, so that he would “feel less anxious.” Additionally, while the Mother told the District that the Student may be more likely to be “dysregulated” at the office than at home, she made clear she would not subject the Student to unnecessary anxiety or questions that would trigger him during the District office observation. The record shows the Parents’ wanted a “preferred, low-demand context” for the observation. Despite this, in addition to discussing preferred interests with the Student, Ms. Joiner was able to gather data about school refusal by asking the Student questions about his feelings of stress and anxiety related to school. The evidence does not support a conclusion that the Reevaluation observation was inappropriate.

⁴⁹⁷ Parents’ Post Hearing Brief p18, p19.
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32. The Parents argue that the District failed to integrate the Parents' reports of school refusal behaviors, like crying, feeling overwhelmed, withdrawal, sensory distress, and an inability to tolerate clothing, into the Reevaluation. The record does not support this claim. Regarding school refusal itself, Ms. Joiner asked questions of the Student from a school refusal assessment scale during her observation and incorporated his responses into the Reevaluation report. The District also provided the Parents with a school refusal questionnaire to complete themselves, but the record does not show whether they returned that form with their input. As far as specific behaviors, the social/emotional/behavior questionnaire completed by the Parents and incorporated into the Reevaluation shows the team considered the Parents' reporting of crying and anger after school, dysregulation, feeling overwhelmed, and withdrawing. When the Parent indicated concerns about possible sensory issues for the Student, the District included sensory as a category for the Reevaluation. Finally, on April 8 the Parents reported that the Student had a rash that made wearing clothes difficult; however, the record shows they did not report the Student had an issue tolerating clothing until they submitted a functional assessment questionnaire on September 9, 2025. The record shows the District properly integrated the Parents' input in the Reevaluation.

33. Based on the above, it is concluded that the District has established by a preponderance of the evidence that the 2025 Reevaluation of the Student was appropriate and it conducted a full and individual evaluation in all areas of suspected disability.

Issue 2a: Whether the District failed to comply with WAC 392-172A-03015(3)(a) by failing to complete the Student's most recent special education reevaluation, dated 4/08/2025, within 35 school days of the district receiving written consent for the reevaluation.

The District did not fail to comply with WAC 392-172A-03015(3)(a) when it completed the Student's 2025 Reevaluation, more than 35 school days after receiving written consent for the reevaluation.

34. The record shows, via emails from several staff members, the District repeatedly provided the Parents with copies of forms needed for the Reevaluation, reminded Parents of the upcoming March 27 deadline for the Reevaluation, and attempted to schedule a meeting to discuss and finalize the Reevaluation. Scheduling difficulties on the part of District team members as well as the Parents, and spring break falling during the scheduling attempts, resulted in the Reevaluation meeting taking place on April 8, 2025, which was beyond 35 school days from January 31, the date of the reevaluation consent. Notably, the record shows the Parents did not return

the BRIEF-2 parent form until April 7, 2025, well beyond March 27; however, the team was able to incorporate the Parents' form into the Reevaluation.

35. While there was a delay in the completion of the Reevaluation, there is nothing in the record showing that exceeding the timeline impacted the validity or appropriateness of the Reevaluation. The evidence in the record does not support a conclusion that there was a denial of FAPE based on this minor procedural defect.

Issue 2c: Whether the District incorrectly determined the Student was no longer eligible for special education and related services following the April 8, 2025 Reevaluation despite the data showing continued need for such services.

The District correctly determined the Student was no longer eligible for special education and related services.

36. After the “administration of assessments and other evaluation measures,” the parent of the student and qualified professionals “determine whether the student is eligible for special education and the educational needs of the student.”⁴⁹⁸ A Student must not be determined eligible if the Student does not “otherwise meet eligibility criteria including presence of a disability, adverse educational impact, and need for specially designed instruction.”⁴⁹⁹

37. The eligibility determination is critical because absent a determination the Student is eligible for special education and related services, the District owes the Student no duty under the IDEA and therefore cannot be held responsible for any remedy requested by the Parents.⁵⁰⁰

38. A student who is eligible for special education is defined as (1) a student who has a disability in one of thirteen eligibility categories and (2) who, because of the disability and an adverse educational impact, has unique needs that cannot be addressed exclusively through education in general education classes with or without individual accommodations, and (3) needs special education and related services.⁵⁰¹ This is in essence a three-part test for special education eligibility.

39. One of the thirteen eligibility categories is “other health impairment.”⁵⁰² An individual who meets this category is defined as “having limited strength, vitality, or

⁴⁹⁸ WAC 392-172A-03040(1)(a).

⁴⁹⁹ WAC 392-172A-03040(2)(b).

⁵⁰⁰ *Durbrow v. Cobb Cty. Sch. Dist.*, 887 F.3d 1182, 1193, 72 IDELR 1 (11th Cir. 2018)(The IDEA confers the right to a FAPE only upon “children with disabilities”).

⁵⁰¹ WAC 392-172A-01035(1)(a).

⁵⁰² WAC 392-172A-01035(j).

alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that: is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder....”⁵⁰³

40. The parties agree that the Student has ADHD; therefore, the first prong of the eligibility determination is met. The second and third prongs of the test, whether the Student’s disability creates an adverse educational impact and whether he requires special education and related services, are in dispute.

41. In considering the last two prongs of the test, the Parents argue that the District overemphasized the Student’s strong academic performance and gave little weight to the results of the Student’s assessments that showed clinically significant anxiety on the BASC-3 parent rating scale, at-risk depression indicators, teacher-rated withdrawal, and elevated emotional regulation concerns on the BRIEF-2. Additionally, they claim the District knew the Student had excessive absences and that Parents were reporting significant mental-health concerns, but it chose to reframe disability-related school refusal as parent choice.

42. A review of the Student’s BASC-3 and BRIEF-2 assessments shows he was not experiencing social-emotional/behavior functioning that impacted him in the school setting, he showed no deficits or concerns in the area of executive functioning, and he displayed an average amount of anxiety for a student of his age. The data the District gathered showed the Student was able to work at or above grade level, received average or above grades, and progress in the general education curriculum alongside his peers. Notably, the District had no access to medical data at the time of the Reevaluation that showed the Student was unable to attend school in the general education setting.

43. It is concluded that the District has met its burden as to the second prong of the test. The District has shown that, based on the information available at the time, the Student’s disability, at the time of the Reevaluation, did not adversely impact his access to education.

44. Even if the Student’s disability did adversely impact his access to the educational environment under the second prong of the test, there is not sufficient evidence that the Student needed SDI exclusively as an intervention. The record shows that, in the school environment, the Student was demonstrating appropriate

⁵⁰³ *Id.* (emphasis added).

coping skills for regulating emotions, managing his anxiety, and interacting appropriately with peers; therefore, he did not need SDI to learn these skills.

45. The record before this tribunal shows that the District carried its burden and has shown that, while the Student has a disability, the disability did not adversely impact the Student's education, and SDI was not required as an intervention. Regardless, the Student and the Parents have opportunities to access related services to support the Student in the classroom and ensure the Student can safely participate in the educational environment.⁵⁰⁴

Issue 2d(i) and (ii): Whether the District failed to provide PWN regarding the approval of a functional behavior assessment, a sensory evaluation, the proposed IEP reevaluation, the change to a partial-day schedule, and the denial of the Parents' requested home instruction; and Whether the District failed to provide PWN in September 2024 and January 2025 that contained all of the required information, including documenting the Parents' request for a reevaluation due to their child's mental health struggles, and the Parents' proposed grade acceleration.

The District has not violated the IDEA or denied the Student FAPE with regard to its provision of PWN regarding the issues listed in 2d(i) and (ii).

46. A school district must provide a PWN to the parents of a child eligible for special education within a reasonable time before it initiates or changes, or refuses to initiate or change, the educational placement of the Student or the provision of FAPE.⁵⁰⁵ "The purpose of the notice is to provide sufficient information to protect the parents' rights under the [IDEA]."⁵⁰⁶

47. To meet the requirements of WAC 392-172A-05010(2), the PWN must be in writing, and include:

- (a) A description of the action proposed or refused by the agency;
- (b) An explanation of why the agency proposes or refuses to take the action;
- (c) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

⁵⁰⁴ Notably, the "SDI" recommended by the Parents (smaller class sizes with less noise, and help with making friends at school) are accommodations that can be provided in the general education classroom under a Section 504 plan.

⁵⁰⁵ WAC 392-172-05010.

⁵⁰⁶ *Kroot v. District of Columbia*, 800 F. Supp. 976, 982 (D.D.C. 1992).

- (d) A statement that the parents of a student eligible or referred for special education have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (e) Sources for parents to contact to obtain assistance in understanding the procedural safeguards and the contents of the notice;
- (f) A description of other options that the IEP team considered and the reasons why those options were rejected; and
- (g) A description of other factors that are relevant to the agency's proposal or refusal.

48. Failure to provide a PWN that meets the requirements of WAC 392-172A-05010 is a procedural violation, but that procedural violation does not necessarily amount to a denial of FAPE. First, it must be determined whether the District complied with the procedures established by the IDEA.⁵⁰⁷ “Procedural inadequacies that result in the loss of educational opportunity or seriously infringe the parents' opportunity to participate in the IEP formulation process, clearly result in the denial of a FAPE.”⁵⁰⁸

49. Procedural violations of the IDEA amount to a denial of FAPE and warrant a remedy only if they:⁵⁰⁹

- (a) impeded the student’s right to a FAPE;
- (b) significantly impeded the parents’ opportunity to participate in the decision-making process regarding the provision of a FAPE to the parents’ child; or
- (c) caused a deprivation of educational benefits.

50. The IEP team issued a PWN on September 29, 2025, which notified the Parents that the team completed an FBA and would not recommend interventions for the Student. There is no evidence showing the September 29, 2025 PWN is missing required information. Accordingly, that PWN met the requirements of WAC 392-172A-05010.

⁵⁰⁷ *Rowley*, 458 U.S. at 206-07.

⁵⁰⁸ *Burke County Bd. of Educ. v. Denton*, 895 F.2d 973, 982 (4th Cir. 1990); *Roland M.*, 910 F.2d at 994; *Hall*, 774 F.2d at 635; *W.G. v. Bd. of Trustees of Target Range School Dist.*, 960 F.2d 1479, 8 IDELR 1019 (9th Cir. 1992.)

⁵⁰⁹ WAC 392-172A-05105(2).

51. The District added sensory as an area of assessment for the reevaluation after requested by the Parents. There is no evidence that this was a decision made as part of an IEP team meeting or that it involved a change to the Student's IEP; therefore, WAC 392-172A-05010 did not require that Parents receive PWN of the addition of a sensory assessment to the reevaluation.

52. There is no evidence in the record showing the District at any time amended the Student's IEP to a partial-day schedule. The record shows there was a "team meeting" in March to discuss options for returning the Student to school. At the time, the District offered a three-phase "slow start proposal." The record does not show that a partial school day was ever adopted or even considered as an IEP placement for Student. Accordingly, WAC 392-172A-05010 did not require that Parents receive PWN of a change to a partial-day schedule.

53. The IEP team issued a PWN on April 15, 2025, which notified the Parents that, based on the results of the 2025 Reevaluation, the team was discontinuing the Student's special education eligibility. At that point, the team could not make a decision regarding home instruction, as the Student was no longer eligible for any special education services. The April 15, 2025 PWN documenting the team's eligibility decision functionally addresses Parents' request for home instruction in light of the outcome of the reevaluation. There is no evidence showing the April 15, 2025 PWN is missing required information. Accordingly, that PWN met the requirements of WAC 392-172A-05010.

54. The record shows the IEP team met on September 26, 2024 and that the Parents did not raise concerns about the Student's anxiety at the meeting or request any changes to the Student's IEP. There is no evidence showing the Parents requested a reevaluation "due to their child's mental health struggles" at that time. A PWN dated September 26, 2024, shows the team proposed continuing the Student's IEP. There is no allegation that the September 26, 2024 PWN is missing any other required information. Accordingly, the September 26, 2024 PWN met the requirements of WAC 392-172A-05010.

55. In January 2025, the IEP team issued two PWNs. In a January 15, 2025 PWN, the team proposed continuing the Student's IEP and amended the IEP to include accommodations previously discussed with the Parents. The record shows the Parents had suggested additional accommodations and were advised those would be better addressed through Student's Highly Capable Student Learning Plan rather than via the IEP process. The IEP team issued a PWN on January 31, 2025, which informed the Parents that the IEP team refused to change the Student's IEP and would be conducting a reevaluation of the Student. That PWN also addressed potential changes

to accommodations once the reevaluation was completed. There is no evidence showing the January PWNs are missing required information. Accordingly, the January 15 and January 31, 2025 PWN met the requirements of WAC 392-172A-05010.

56. Credible testimony from multiple District witnesses shows that grade acceleration is a general education process and is not a decision made by the IEP team; therefore, WAC 392-172A-05010 did not require that Parents receive PWN of the District's denial of their grade acceleration request.

57. The Parent did not brief this claim and no evidence in the record contradicts a conclusion that the PWNs issued by the District satisfied the requirements of WAC 392-172A-05010.

Issue 2e: Whether the District failed to provide all general and special education services the Student is entitled to under his prior IEP between January 2025 and present.

The District did not materially fail to implement the Student's IEP by not providing required IEP services from January 2025 to present.

58. If a school district fails to implement an IEP, the question is whether that failure was material.⁵¹⁰ A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.⁵¹¹ Only a material failure to implement an IEP violates the IDEA.⁵¹²

59. The Ninth Circuit has made clear that minor discrepancies in the services required by the IEP do not violate the IDEA.⁵¹³

“[S]pecial education and related services” need only be provided “*in conformity with*” the IEP. [20 USC §1401(9).] There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education.

* * *

⁵¹⁰ *Van Duyn v. Baker Sch. Dist.*, 502 F.3d 811, 822 (9th Cir. 2007).

⁵¹¹ *Id.* at 821-22.

⁵¹² *Id.* at 822.

⁵¹³ *Id.*

We hold that a *material* failure to implement an IEP violates the IDEA. A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.⁵¹⁴

60. The Parents did not brief this issue. The nature of their claim is unclear and the evidence on which they rely is not apparent. There is no evidence in the record showing SLP Ms. Straub did not provide the required communication services under the IEP when the Student attended school. Evidence shows she offered virtual services when the Student was not in school, but was turned down. The record shows that after the filing of the Parents' Complaint, the IEP team issued a PWN on April 11, 2025, proposing initiating stay-put status of the Student's IEP. Ms. Straub emailed the Parents in April 2025 to schedule services and was informed the Parents would not be participating in school related matters for the Student at that time. Ms. Straub emailed again on September 3, and September 29, 2025 to initiate services, but the Parents did not respond.

61. The record shows that the District met its burden to prove it made appropriate efforts to serve the Student under his IEP. The evidence does not support a conclusion that the District materially failed to implement the Student's IEP from January 2025 to present.

Issue 2f: Whether the District failed to develop an appropriate FBA and BIP despite evidence that Student's disability-related behavior was interfering with the Student's ability to access an education.

The FBA developed by the District was appropriate.

62. In the case of a child whose behavior impedes the child's learning or that of others, the IEP team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.⁵¹⁵ An FBA is one type of behavioral intervention or strategy that helps identify causative factors and objectionable behaviors.⁵¹⁶ Although school districts use FBAs in other contexts, they are only *required* in specific disciplinary situations as the Ninth Circuit held in *Butte Sch. Dist. No. 1 v. C.S.*, 817 F. App'x 321 (9th Cir. 2020):⁵¹⁷

⁵¹⁴ *Id.* at 821-22 (italics in original).

⁵¹⁵ 20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i).

⁵¹⁶ *J.L. v. Manteca Unified Sch. Dist.*, 2016 U.S. Dist. LEXIS 77441 (E.D. Cal. June 14, 2016); see also *S.J. v. Issaquah Sch. Dist.*, 2007 U.S. Dist. LEXIS 67735 (W.D. Wash. Sept. 12, 2007).

⁵¹⁷ *Id.* at 326.

The IDEA only requires an FBA when a child is removed from his current placement due to problem behaviors. 20 U.S.C. § 1415(k)(1)(D)(ii). For other students with disability-related behavioral needs, an IEP need only include (1) “measurable annual goals” developed to “enable the child to be involved in and make progress in the general education curriculum;” and (2) how “progress toward meeting the annual goals . . . will be measured.” 34 C.F.R. § 300.320(a)(2)(i), (3)(i).

63. A BIP is a plan incorporated into a student’s IEP if the IEP team determines that it is necessary for the Student to receive FAPE.⁵¹⁸

64. A school district’s failure to address behavioral issues appropriately can amount to a denial of FAPE.⁵¹⁹

65. The evidence demonstrates that the District arranged four different observations of the Student, one at home, one in a district office, and two in a school classroom, and considered the results of each when collecting data for the FBA. Ms. Gutierrez made a reasonable effort to schedule the observations when the BCBA and psychologist were most likely to observe the primary target behavior of school avoidance. However, the Mother arranged the home observation at a time when the behavior was unlikely to occur (from 9:30 a.m. to 2:00 p.m.) and specifically requested that the other observation take place at the District office rather than the Student’s school, in order to help the Student “feel less anxious.” She also made clear she would not subject the Student to unnecessary anxiety or questions that would trigger him. While it is understandable that the Mother would want to protect her child, it is unclear how the BCBA and school psychologist performing the observations would be able to observe and address the target behaviors if they were unable to witness them.

66. The results of the observations considered in the FBA showed that no District staff who observed the Student at home, in the District office, or in classrooms, witnessed behaviors that would impede his attendance at school or prevent him from participating in learning. No observer saw the Student picking his lips or fingernails, shutting down, withdrawing, acting frustrated, crying, appearing dysregulated, avoiding eye contact, or shielding his face.

67. While the Parents reported to the school staff about the intense school refusal behavior they experienced with the Student at home, Ms. Schmidt credibly testified to the importance of an outside observer witnessing the behavior, either in person or on

⁵¹⁸ WAC 392-172A-01031.

⁵¹⁹ *Neosho R-V School District v. Clark*, 315 F.3d 1022, 1028 (8th Cir. 2003).

video, rather than relying exclusively on reports from a person routinely engaging with the Student's behavior. Notably, Ms. Schmidt offered to observe the Student in the home when the Student's behavior occurred, or to review video of the behavior captured by the Parents; however, the Parents declined.

68. The Parents rely heavily on the argument that the Student was masking or internalizing his distress at school as a coping mechanism, and that District staff who understood masking should have recognized it was occurring and addressed it in the FBA. However, the record does not support the Parents' contention that the Student was masking or otherwise internalizing significant anxiety or distress in the school setting. Although the Parents repeatedly asserted that the Student concealed symptoms at school, Dr. Enns did not testify that the Student was masking. Additionally, in Dr. Enns's report, the only references to "masking" came from the Mother. Further, Dr. Enns's report did not demonstrate the Student internalizing symptoms at a clinically significant level. Finally, while the Mother reported elevated internalizing measures, the Student's own self-report primarily endorsed an aversion to school without mention of significant coping mechanisms.

69. Based on the above, the District has shown by a preponderance of the evidence that it developed an appropriate FBA for the Student, based on the information that was available at the time, and did not err when it declined to create a BIP.

Whether the District improperly denied home instruction.

70. The Parents contend, for the first time, that the District improperly denied a placement to home instruction.⁵²⁰ This is an issue that was raised in the Parents' post-hearing brief, but was not raised in the Parents' Complaint or included in the issue statement. The District did not agree to add any new issues to the issue statement and the issue was not actually tried by the parties at the hearing.

71. A party requesting a due process hearing may not raise issues during a due process hearing that were not raised in the complaint unless the other party agrees.⁵²¹ "Administrative and judicial review in IDEA cases is specifically limited to the issues raised in the due process complaint, unless the parties agree otherwise."⁵²² This is consistent with Washington administrative law requiring that a

⁵²⁰ Parents' Post Hearing Brief p26.

⁵²¹ WAC 392-172A-05100(3); 20 U.S.C. § 1415(f)(3)(B).

⁵²² *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

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.⁵²³ An exception to this rule is when an issue was actually tried by the parties at an administrative hearing.⁵²⁴

72. Because the Parents assert a claim that was not raised directly in their Complaint or the issue statement, that the parties did not agree to address, and that was not actually tried by the parties at the hearing, it is not proper for the tribunal to consider this issue.

ORDER

1. The District has proven by a preponderance of the evidence that the 2025 Reevaluation of the Student was appropriate.
2. The District has proven by a preponderance of the evidence that it did not deny the Student a free appropriate public education.
3. The Parents are not entitled to an IEE at public expense or any other remedy.

SERVED on the date of mailing.



Jill H. Brown
Administrative Law Judge
Office of Administrative Hearings

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).

⁵²³ WAC 10-80-130.

⁵²⁴ *M.C. v. Antelope Valley Union High School Dist.*, 858 F.3d at 1196; *A.W. v. Tehachapi Unified Sch. Dist.*, 2019 U.S. Dist. LEXIS 37815 *15-19 (E.D. Cal. Mar. 7, 2019), *aff'd* 810 Fed. Appx. 588 (9th Cir. 2020); *see also L.C. v. Issaquah Sch. Dist.* at *37 (holding that parents failed to show any of claims not considered by ALJ were tried by consent, contrasting with *Antelope Valley*: "[b]oth sides in *Antelope Valley* 'presented extensive evidence,' including witness testimony, regarding the omitted claim").

Right To Bring A Civil Action Under The IDEA

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

DECLARATION OF SERVICE

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

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Dated May 22, 2026, at Spokane Valley, Washington.

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cc: Administrative Resource Services, OSPI