

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Seattle School District

Docket No. 06-2025-OSPI-02595
06-2025-OSPI-02615

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

Agency: Office of Superintendent of
Public Instruction
Program: Special Education
Cause No. 2025-SE-0096
2025-SE-0106

A due process hearing was held before Administrative Law Judge (ALJ) L'Nayim Shuman-Austin on February 3-5, and February 25, 2026, via videoconference. The Parents of the Student whose education is at issue¹ appeared and were represented by Ryan Ford, attorney at law. Chloe Palmer, associate attorney, was also present for the Parents. The Seattle School District (District) was represented by Susan Winkelman, attorney at law. Also present for the District was Mike Bylsma, Director of Special Education of School-Based Services.

STATEMENT OF THE CASE

Procedural History

The Parent filed a due process hearing request on June 17, 2025. The matter was assigned to ALJ Jill Brown on June 23, 2025 (Docket No. 06-2025-OSPI-02595). On June 26, 2025, the District filed a separate due process hearing request. The matter was assigned to ALJ Brown on June 27, 2025 (Docket No. 06-2025-OSPI-02615).

A prehearing conference was held on July 21, 2025. A Prehearing Order was issued on July 22, 2025, consolidating the appeals, outlining issues for hearing, and setting the hearing for October 7-9, 2025. On August 15, 2025, the ALJ granted the Parents' motion to amend their complaint, and issued an order outlining additional issues for hearing. On September 26, 2025, the ALJ issued an order of continuance granting the Parents' request to continue the hearing, and setting the hearing for February 3-5, 2026.

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

On February 2, 2025, both matters were reassigned to ALJ L’Nayim Shuman-Austin. The due process hearing was held as scheduled on February 3-5, 2026. An additional hearing date was scheduled for and held on February 25, 2025.

Due Date for Written Decision

The due date for a written decision in this matter is July 15, 2026.

EVIDENCE RELIED UPON

Exhibits Admitted:

District’s Exhibits: D1-D8, D11-D24.

Parent’s Exhibits: P1-P3, P5 (amended), P6-P9, P10 (amended), P11-P23, P25-P31, P33-P37, P39-P39b, P46-P64, P66, P69-P72, P75-P78

Witnesses Heard:

Annemarie Noel Hutson – District School Psychologist

Todd Bittle – District Student Support Services Supervisor

Lisa Young – District Instructional Resource Specialist

Kim Pepin – School Psychologist, Chief Leschi Schools

Katie Boe – Reading and Advisory teacher, Hamlin Robinson School (HRS)

Dr. Daniela Ferdico – Clinical Neuropsychologist, Cascade Neurodiagnostics, PLLC

Lindsey Key – Director of Teaching and Learning, HRS

Ivory Stewart – District Director of Special Education

Mother of Student

Amanda McNaughton – District Special Education Services Supervisor

Kiah LeMasson – Writing teacher, HRS

Jennifer Pelland – District Educational Staff Associate (ESA) Supervisor

Father of Student

ISSUES

The August 15, 2025, Order Granting Student’s Motion for Leave to Amend Complaint (August 2025 Order), outlined the following issues and remedies for hearing:

- a. Whether the District's May 2025² reevaluation of the Student was appropriate, and if not, whether the Parents are entitled to an independent educational evaluation (IEE) at public expense; and
- b. Dating back two years from the date of filing of Parents' original Complaint and up through the date of Parents' Amended Complaint, 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:
 - i. By failing to complete an appropriate evaluation of the Student in May 2025;
 - ii. By determining that the Student was not eligible for special education services based on the results of the May 2025 reevaluation;
 - iii. By predetermining that the Student did not qualify for specially designed instruction (SDI) in advance of the meeting held to review Student's May 2025 reevaluation;
 - iv. By denying the Parents the opportunity for meaningful participation in Student's May 2025 reevaluation and reevaluation meeting;
 - v. By predetermining the Student would not be placed at Hamlin Robinson (HRS) prior to reevaluating the student for eligibility for special education services; and
 - vi. By denying the Parents the opportunity for meaningful participation in developing the Student's individualized education program (IEP) that would have been developed subsequent to the District's reevaluation of the Student.
- c. And, whether the Parents are entitled to their requested remedies:
 - i. That the Student remain eligible for special education services in the areas of Reading and Written Language until the District completes an appropriate reevaluation for the Student that determines the Student is no longer eligible for special education services in the areas of Reading and Written Language;

² While the Parents' Issue Statements references the "May 2025 reevaluation," records indicate that the reevaluation at issue was finalized in June 2025.

- ii. That the Student's most recent IEP remain in effect as written unless otherwise agreed to by the Parents and the District;
- iii. To the extent that compensatory education is required, that appropriate compensatory education services be provided through HRS;
- iv. That Ms. Hutson, the District's other school psychologist, and the District's Special Education Department (including Directors, Supervisors, and Specialist) undergo appropriate remedial training to address the District's violations of IDEA as addressed by the ALJ;
- v. If it is determined that the District predetermined the Student's placement would not be at HRS for the 2025-2026 school year, that the District fund the Student's placement at HRS for the entirety of the 2025-2026 school year;
- vi. If it is determine that the District denied the Parents the opportunity for meaningful participation in the development of the Student's special education programming, that the District fund the Student's placement at HRS for the entirety of the 2025-2026 school year; and
- vii. Other equitable remedies, as appropriate.

FINDINGS OF FACT

The Student

1. The Student is currently fourteen years old. P21. In 2019, the Student was diagnosed with specific learning disabilities in dyslexia, dysgraphia, and attention deficit hyperactivity disorder (ADHD). P78; D16 p.11. Also in 2019, the Student received a full scale intelligence quotient (IQ) score of 111, in the high average range, on the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V). D11 p.6-7.

2. The Student's September 2022, September 2023 and September 2024 Individualized Education Programs (IEPs), do not contain any specific diagnoses of dyslexia, dysgraphia or ADHD. P21; P22; P23. Rather, the IEPs reflect that the Student has been continuously eligible for special education services under the Specific Learning Disability (SLD) category using the discrepancy model, because her reading and writing skills were discrepant from what would be expected based on her overall cognitive ability. P21 p.7; P22 p.6; P23 p.4. The IEPs further reflect that she received SDI in reading, written language and social/behavior skills, and spent 100% of the school day in a special education setting. P21 p.19; P22 p.19; P23 p.14.

Hamlin Robinson School (HRS)

3. The Student attended Leschi Elementary in the District from kindergarten through second grade. P8 p.2; Tr. 410 (Boe). Since third grade, the Student has attended Hamlin Robinson School (HRS), a Non Public Agency (NPA), which serves children between kindergarten and eighth grade. P8 p.2. The terms of her September 2022, September 2023 and September 2024 IEPs identify HRS as the least restrictive environment (LRE) to provide her with a Free and Appropriate Public Education (FAPE). P21 p.7; P22 p.6; P23 p.4; D1.³ The Student recently completed eighth grade at HRS pursuant to stay put requirements related to this administrative hearing.⁴

4. HRS focuses on students with dyslexia and other language-based differences, and utilizes the “Slingerland” method of teaching in all classes. P35; P36; P37; Tr. 567 (Key). Slingerland focuses on phonological awareness, decoding, word formation, structured literacy and writing. P37; Tr. 359-360 (Boe); Tr. 619 (Key). All HRS teachers receive training and certification in the Slingerland process. Tr. 356-357 (Boe); Tr. 573 (Key). Slingerland 1 certification consists of approximately 133 hours of training, including a one month intensive training with delivery of instruction in small groups over the summer, and a full year practicum with monthly meetings, ongoing training, classroom observation, and mentoring. Tr. 356-359 (Boe); Tr. 573 (Key). Slingerland 2 certification consists of approximately 60 hours of additional training and a full year practicum, focusing on reading instruction and more complex writing, and working on lesson plans. Tr. 358-359, 361-362 (Boe); Tr. 573-574 (Key). Slingerland 3 training consists of an additional two years of training with a mentor, and certifies a teacher to train other teachers in the Slingerland method. Tr. 574 (Key).

5. HRS operates on a trimester program from September through June, and offers a summer academy in July. P25; P27; Tr. 387 (Boe). HRS issues report cards three times per year, and monitors all student progress with the STAR English Language Arts (ELA)/reading test, STAR math test, and the STAR Reading Fluency CBM test which measures reading fluency based on words per minute (wpm) up to the sixth grade. D17; P26; Tr. 398-399 (Boe); Tr. 632 (Key). HRS also supervises the implementation of Washington State’s Smarter Balanced Assessment (SBA). D16 p.7; Tr. 594 (Key). Students with IEPs additionally receive IEP progress reports mid-year and end-of-year. P26; Tr. 400 (Boe); Tr. 621-622 (Key).

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

⁴ Prehearing Order, issued 07/22/25 (OAH Administrative Record).

September 2022 IEP (2022-2023)

6. The Student's September 2022 IEP, effective during her fifth grade year, reflected that despite her cognitive ability, the Student struggled in reading with decoding, segmenting words, basic reading, and reading comprehension, and struggled in writing with spelling, capitalization, punctuation, sentence structure, letter reversals, and writing an essay. P21. P.7. The IEP included the Student's standardized test results, noting that she scored Level 2/Did Not Meet Standard on the Spring 2022 SBA ELA,⁵ and in the 29th percentile on the May 2022 STAR ELA,⁶ which was equivalent to third grade, 9 months. P21 p.5, 8. The IEP noted that the Student scored 50 wpm on a fourth grade STAR CBM measure. P21 p.9. The IEP indicated that the Student was performing below grade level in reading and writing in the classroom despite provision of SDI. P21 p.7.

7. The September 2022 IEP included the results of a June 2022 Behavior Assessment System for Children, Third Edition (BASC-III), noting that the Student was "at risk" in aggression, adaptive skills, adaptability, social skills, leadership, and functional communication, and that the Student found it challenging to initiate tasks, avoid distractions, stay on-task, put her ideas on paper, complete assignments, and stay in her seat. P21 p.7.

8. The September 2022 IEP noted that the Student continued to qualify for SDI in reading, written language and social/behavior skills. P21 p.7. The IEP specified that the Student required structured literacy instruction for the majority of her school instruction, and that HRS constituted her LRE. P21 p.7. The IEP specified that the Student received "explicit instruction in daily structured literacy tasks throughout the school day, including oral language, reading, written expression, and science/social studies instruction," and further noted that all HRS teachers were trained in structured literacy methodology. P21 p.7.

9. The September 2022 IEP outlined four goals in reading focusing on fifth grade level including: reading fluency in sight words; decoding science and social studies vocabulary words; reading comprehension with written output; and oral reading fluency. P21 p.9-10 The IEP outlined four written language goals: writing mechanics including capitalization, spelling, grammar and punctuation; correctly spelling

⁵ The SBA ELA test provides a student's standard score (SS), and also measures progress at four levels: Level 1/Beginning, Level 2/Did Not Meet Standard, Level 3/Met Standard, and Level 4/Exceeds Standard. D18.

⁶ The STAR ELA/reading test assesses reading comprehension, including inference, character development, conclusion, and the author's purpose. D17; Tr. 419 (Boe). The test provides a student's standard score (SS) which can be converted into a percentile, but also measures progress in four levels: Level 1/Beginning, Level 2/Developing, Level 3/Meets Target, and Level 4/Secure. D17.

phonetically-controlled two syllable words; increasing total words written in a response to a writing prompt; and editing. P21 p.14-15. The IEP outlined two goals in social/behavior: independent time on tasks; and organization. P21 p.12.

10. The September 2022 IEP specified that the Student would spend 100% of the time in the special education setting, and identified HRS as her LRE. P21 p.7, 19. The IEP outlined 1800 minutes per week in SDI in reading (800 minutes), written language (800 minutes), and social/behavior skills (200 minutes). P21 p.19. The IEP further provided the Student with Extended School Year (ESY) services at HRS. P21 p.21.

September 2023 IEP (2023-2024)

11. The Student's September 2023 IEP, effective during her sixth grade year, recommended SDI in reading, writing and social/behavior skills. P22 p.6. The IEP reflected that while the Student completed the Spring 2022 SBA ELA, these results were not shared with HRS, and that she scored in the 47th percentile on the September 2023 STAR ELA, or the equivalent of an instructional reading level (IRL) of 5.7 (fifth grade, seven months). P22 p.7. The IEP did not include the results of the Student's STAR CBM reading fluency, noting that assessments in reading fluency would take place later in the school year. P22 p.7.

12. The September 2023 IEP noted that the Student was performing below grade level in reading and writing in the classroom despite provision of SDI. P21 p.7. The IEP indicated that the Student continued to require assistance in the reading areas of word attack, sight recognition, and reading comprehension, continued to require assistance in the writing skills of spelling, writing mechanics, written word production and editing/proofreading, and continued to require support in order to avoid distractions, stay on task, and complete assignments. P22 p.6.

13. The September 2023 IEP reflected that the Student had met her goals in reading fluency in sight words and decoding at a fifth grade reading level, but had not met her goals in reading comprehension or oral reading fluency, and recommended that all four reading goals continue at the sixth grade level. P22 p.6-8. The IEP noted that the Student had not met any of her written language goals, and recommended that she still receive support in writing mechanics, spelling, writing response and editing for sixth grade. P22 p.12-14. While the Student met her goals in social/behavior in the fifth grade classroom, the IEP recommended that the goals continue for sixth grade. P22 p.10.

14. The September 2023 IEP outlined four goals in reading focusing on the sixth grade level: fluency in sight words; decoding science and social studies vocabulary words; reading comprehension with a writing component; and oral reading fluency.

P22 p.8-10. The IEP outlined four written language goals: writing mechanics including capitalization, spelling, grammar and punctuation; correctly spelling phonetically-controlled two syllable words; total words written; and editing. P22 p.14-15. The IEP outlined two goals in social/behavior: independent time on tasks; and organization. P22 p.12.

15. The September 2023 IEP specified that the Student would spend 100% of the time in the special education setting, and again identified HRS as her LRE. P22 p.6, 19. The IEP outlined 1800 minutes per week in SDI in reading (800 minutes), written language (800 minutes), and social/behavior skills (200 minutes). P22 p.19. The IEP also provided the Student with ESY services at HRS. P22 p.21.

September 2024 IEP (2024-2025)

16. The Student's seventh grade school year began on September 4, 2024. P27. The Student's September 2024 IEP recommended SDI in reading, writing and social/behavior skills. P23 p.4. The IEP included the Student's standardized test results, noting that she scored Level 2/Did not meet standards on the Spring 2024 SBA ELA, and that she scored in the 64th percentile on the May 2024 STAR ELA, reflecting an IRL of 8.0 (eighth grade). P23 p.3, 5.

17. The September 2024 IEP reflected that the Student had met all previous IEP reading goals. P23 p.4-6. The Student read 27/30 sixth grade sight words within one minute, exceeding her goal of 25/30 words read correctly. P23 p.5. The Student decoded 20/20 sixth grade science words with no errors, exceeding her goal of decoding 18/20 words correctly. P23 p.5-6. The Student read 118wpm at a sixth grade level with four errors, as measured by the STAR Reading Fluency CBM test, exceeding her goal of 90 wpm without errors. P23 p.5. The Student also met her IEP goal of reading a sixth grade level text, and writing a 4-element comprehension response. P23 p.5.

18. The September 2024 IEP reflected that the Student met one of her September 2023 IEP writing goals and made "significant progress" toward her other three goals. P23 p.8-9. The Student met her IEP writing goal to write 85 total words written in response to a verbal writing prompt, producing a sample of 108 words in May 2024. P23 p.9. The IEP reflected that the Student had made "significant progress" toward her IEP writing goal to improve writing mechanics from 70% accuracy to 85% accuracy, noting that she had received a score of 3/Meets Expectations for sentence level writing, paragraph writing, and responding to writing prompts on her May 2024 report card. P23 p.8-9. The IEP further reflected that the Student made "significant progress" toward her IEP editing goal to increase her proofreading skills to 80% accuracy, improving proofreading and editing accuracy to 70% by January 2024. P23 p.9. The

Student also made “significant progress” toward her IEP goal to spell 18/20 words correctly, scoring 11/20 on a phonetically controlled word list in January 2024, and 10/14 on a pretest in September 2024. P23 p.8-9.

19. The IEP further noted that the Student met her previous social/behavior goal of working for a task for 30 minutes while staying on task 95% of the time, and demonstrated 90% proficiency in organization of classroom materials, thus nearly reaching her goal of 95% proficiency. P23 p.7.

20. After noting the Student’s progress on all IEP goals, the September 2024 IEP again recommended that the student continue to receive SDI in reading, writing and social/behavior at a seventh grade level. P23 p.4-6. The IEP outlined three goals in reading, one goal in social/behavior, and two goals in writing, with progress to be measured each semester:

Annual Goal: READING

Skill: Decoding

By 09/29/2025, when given a decoding list of 20 multisyllabic words with and without prefixes and suffixes, [Student] will use the Slingerland Method (ignoring affixes, finding vowels/phonograms, dividing syllables, and reading) to accurately decode the words improving word attack skills from 70% accuracy to 90% accuracy as measured by formative assessments and observations.

Annual Goal: READING

Skill: Reading Comprehension

By 09/29/2025, when given a non-fiction text, [Student] will identify the main argument or claim and at least two reasons supporting the argument improving reading comprehension from 0/3 attempts to 3/3 attempts as measured by STAR Reading data and student work samples

Annual Goal: READING

Skill: Reading Fluency

By 09/29/2025, when given a 7th grade-level reading passage [Student] will read with appropriate phrasing, expression and pacing improving reading fluency from 118 wpm with 96% accuracy to 130 wpm with 98% accuracy as measured by curriculum-based assessments and teacher observation.

Annual Goal: SOCIAL/BEHAVIOR

Skill: Organization

By 09/29/2025, when given time to reflect on her organizational process, such as updating the planner, noting due dates, setting priorities, and organizing papers/files, [Student] will develop strategies that help her stay organized and implement those consistently, improving organization of assignments, materials, and files from 0/5 checks per week to 5/5 checks per week as measured by

binder, planner, and grade checks completed in Advisory and in the Technology class.

Annual Goal: WRITTEN LANGUAGE

Skill: Spelling

By 09/29/2025, when given a dictated list of words containing common Latin prefixes, roots, and suffixes (ex: in-ject-(t)ion) [Student] will identify the word as having Latin origin and apply the necessary rules for spelling with Latin morphemes (chameleon prefixes, double at the prefix/overlap at the suffix, etc.) improving spelling from 60% accuracy to 80% accuracy as measured by spelling and dictation tests.

Annual Goal: WRITTEN LANGUAGE

Skill: Sentence and Paragraph Composition

By 09/29/2025, when given a writing prompt presented orally, with 5 minutes to plan, and 10 minutes to write [Student] will write a response to the given prompt using varying sentence types (simple, complex, compound) to convey the message, avoiding run-on sentences and fragments, improving sentence and paragraph composition from 40% accuracy to 80% accuracy as measured by student work samples.

P23 p.8-9

21. The September 2024 IEP specified that the Student would spend 100% of the time in the special education setting, and again identified HRS as her LRE. P23 p.4, 14. The IEP outlined 1800 minutes per week in SDI in reading (800 minutes), written language (800 minutes), and social/behavior skills (200 minutes). P23 p.14. The IEP again provided the Student with ESY services at HRS. P23 p.16.

February – March 2025 Communications Regarding Placement

22. On February 25, 2025, Max Beron, Director of Business and Operations at HRS, contacted David Valtierra, the District contractor who processed NPA contracts with the District, to enquire whether the Student would remain placed at HRS for the 2025-2026 school year. P2 p.4; Tr. 189-190 (Bittle).

23. On March 18, 2025, Mr. Valtierra e-mailed Mr. Beron that the Student “will be returning to the District for the next school year.” P2 p.1. Mr. Valtierra copied Ivory Stewart,⁷ District Director of Special Education, on the e-mail. P2 p.1.

⁷ Ms. Stewart has held the position of District Director of Special Education for the last three years, managing contracts between the District and NPAs and ensuring federal and state compliance. Tr. 712 (Stewart); P50 p.5-7 (Stewart Dep.). Ms. Stewart previously worked as a District regional Special Education Services Supervisor. *Id.*

24. That same day, Lindsey Key, Director of Teaching and Learning at HRS, e-mailed Lisa Young,⁸ District Instructional Resource Specialist, asking why the Student would no longer be placed at HRS for the following year, and indicating that an IEP meeting would be required before changing the Student's placement. P3 p.1; Tr. 643-644 (Key). The next day, Ms. Key forwarded her e-mail to Todd Bittle,⁹ District Student Support Services Supervisor, stating "[c]an you help us understand what's going on?" P3 p.2; Tr. 644 (Key).

25. On March 24, 2025, Ms. Young forwarded Ms. Key's original March 18, 2025, e-mail to Mr. Bittle, stating that if the Student was not attending HRS, the IEP would have to be amended. P3 p.4, 17; Tr. 207 (Young). Mr. Bittle responded to Ms. Young by e-mail, cc'ing Rachel Disario, District Senior General Counsel, and indicating that he was "wrapping legal into this conversation," as he was not part of the discussion. P3 p.5; Tr. 189-190 (Bittle). Ms. Disario responded to Mr. Bittle the same day, cc'ing Ms. Young, and indicated that there had been no placement decisions regarding the Student, that she was due for an evaluation, and that after the evaluation the IEP team would meet to discuss placement. P3 p.7.

26. Also on March 24, 2025, Ms. Stewart responded to Mr. Bittle and Ms. Young, indicating she was unsure where HRS had obtained the information, and that she would "check with David" (Mr. Valtierra). P3 p.11; Tr. 715-716 (Stewart). Ms. Stewart also indicated that the Student was due for an evaluation, and the District would assign a psychologist. *Id.*

27. On March 25, 2025, Ms. Young e-mailed Ms. Stewart, informing her that the information had come directly from Mr. Valtierra and that his e-mail stated that services would stop to HRS the next year. P3 p.19-20; Tr. 208 (Young).

28. That same day, Ms. Young also responded to Ms. Key's original March 18, 2025 e-mail, informing her that the District legal team was not aware of any changes to the Student's services, but that she was due for an evaluation and that a psychologist would be assigned to complete one. P3 p.17-18; Tr. 206-207 (Young). Ms. Key responded by forwarding Ms. Young a screenshot of Mr. Valtierra's original March 18,

⁸ Ms. Young has worked as the District's Instructional Resource Specialist for the past four years, managing the District's 500+ IEPs, documenting costs to Washington state each year and ensuring IEPs are completed on time and are compliant with OSPI guidance. Tr. 201-202 (Young); P52 p.5 (Young Dep.). She previously worked for the District as a special education teacher (5 years), and Program Specialist (5 years), and holds teaching credentials from California State. Tr. 200-201 (Young); P52 p.5 (Young Dep.).

⁹ Mr. Bittle holds a Master's in Education, is currently a doctoral candidate, and previously worked as a classroom teacher and counselor, and an assistant principal in both elementary and high school. Tr. 178 (Bittle). In February 2025, Mr. Bittle began working as District Support Services Supervisor for the central region. Tr. 178-179 (Bittle).

2025, e-mail to HRS indicating that the Student would return to the District the following school year. P3 p.16, 22-23; Tr. 208-209 (Young). Ms. Young then responded to Ms. Key:

I think that is the plan for next year, but will need an IEP meeting.
For now the [Student is] still attending and will through the Summer.
We are moving to do the Eval and maybe it will be talked about at the meeting.

P3 p.22.

29. As of the date of hearing, Mr. Valtierra no longer worked for the District and could not be located to testify regarding his March 18, 2025 e-mail to HRS. D24; Tr. 189-190 (Bittle); Tr. 712-713, 714 (Stewart).

30. Ms. Key recalled receiving Mr. Valtierra's original March 18, 2025 e-mail, and Ms. Young's March 25, 2025 e-mail indicating that "it is the plan for next year, but will need an IEP meeting." P3, p.1, p.22; Tr. 643-644 (Key). Ms. Key believed these communications indicated that the District had already made the decision for the Student to return to the District for the 2025-2026 school year prior to any IEP meeting. Tr. 645 (Key).

31. Ms. Young recalled receiving the screenshot of Mr. Valtierra's March 18, 2025 e-mail from Ms. Key, and forwarding questions about the communication to Mr. Bittle and Ms. Stewart. P3 p.17, 19; Tr. 207-208 (Young). Ms. Young did not receive any follow-up communications from Ms. Stewart after e-mailing her on March 25, 2025, about the Student's placement for the following year. P3, p.19-20; Tr. 211 (Young). Ms. Young emphasized that she was not involved in the Student's IEPs, evaluations or placement decisions. Tr. 203 (Young).

32. Ms. Stewart recalled her March 24, 2025, e-mail to Mr. Bittle and Ms. Young, indicating she was unsure where HRS had obtained the information that the Student would not return, and that she would "check with David" (Mr. Valtierra). P3 p.11; Tr. 716 (Stewart). Ms. Stewart planned to check with Mr. Valtierra because although he understood NPA contracts, he was less knowledgeable about special education students and services. Tr. 716-718 (Stewart). Ms. Stewart emphasized that Mr. Valtierra was not involved in any special education placement decisions at the District. Tr. 717-718, 723 (Stewart).

33. Mr. Bittle became the Special Education Services Supervisor of the District's central region, which included the Student, sometime in February 2025. Tr. 178-179 (Bittle). Mr. Bittle did not recall the March 2025 e-mail chain regarding the Student, but opined that he might have chosen to inform District legal representative about the communications with HRS because he was new in his role. P2 p.4-5; Tr. 189-191 (Bittle).

34. Amanda McNaughton,¹⁰ District Special Education Services Supervisor, previously oversaw special education students in the District's central region, including the Student. Tr. 770-772 (McNaughton). Sometime in February or March 2025, she transferred her caseload to Mr. Bittle. Tr. 771 (McNaughton). Prior to this transition, she informed Mr. Bittle and Ms. Hutson that the Student had an upcoming required triennial reevaluation, but did not discuss the Student's placement with either of them. Tr. 774-775 (McNaughton). Ms. McNaughton did not see Mr. Valtierra's March 18, 2025 e-mail to HRS until the hearing, and was not involved in any of the later communications addressing Mr. Valtierra's e-mail. P2 p.1; T P3, p.3, 5; Tr. 773-774 (McNaughton). Ms. McNaughton might have communicated with Mr. Valtierra about the Student at some point, but did not discuss the Student's placement at HRS. Tr. 778-779 (McNaughton).

2025 Reevaluation Process

35. On April 29, 2025, Annemarie Hutson, a District school psychologist, contacted the Parents to complete a triennial reevaluation for the Student. D2; Tr. 63 (Hutson). Ms. Hutson attached a Reevaluation Notification/Consent, which indicated that the reevaluation would include review the Student's existing data, as well as the Student's written language, cognitive, reading, and social/behavior skills. D2 p.1, 2-4. Ms. Hutson also attached a parent questionnaire. D2 p.1, 5.

36. On May 5, 2025, the Parents signed the Reevaluation Notification/Consent, and requested that the reevaluation additionally assess the Student in communication and medical-physical. P5; Tr. 736-737 (Ms. Parent). See *also*, D3. The Parents did not check the box to assess the Student's Study/Organizational Skills, but instead added the following note under "Other": "study/organizational (ADHD diagnosis) has accommodations/services that will need to be continued." P5 p.1. See *also*, D3 p.1. That same day, the Parents also submitted a completed Parent/Guardian Questionnaire. D4; Tr. 786-787 (Ms. Parent). The questionnaire indicated that the Student took medication for ADHD, that she had a low tolerance for frustration, that the Student "[n]eeds explicit, multisensory instruction in phonics, fluency and comprehension," and "needs continued special education for the aforementioned reasons." D4; Tr. 786-787 (Ms. Parent).

37. The Student's mother recalled receiving a May 2025 draft reevaluation, an updated June 2025 reevaluation, and a June 2025 final reevaluation from the District.

¹⁰ Ms. McNaughton has worked as a regional District Special Education Services Supervisor for the past four years. Tr. 770 (McNaughton). Ms. McNaughton previously worked as a teacher and special education program specialist for the District. Tr. 770 (McNaughton).

P8 (May 2025 draft reevaluation); P12 (June 2025 draft reevaluation); P16 (June 2025 final reevaluation; Tr. 738-740 (Ms. Parent). See *also*, D11; D13; D16.

May 2025 - Draft Reevaluation

38. On May 15, 2025, Ms. Hutson e-mailed the HRS front office and requested the Student's most recent STAR reports. D7 p.1-2.

39. On May 19, 2025, Ms. Hutson assessed the Student in person using the Kaufman Test of Educational Achievement – Third Edition (KTEA-3). D11 8; Tr. 75 (Hutson). The Student also completed a self-scored Social Skills Inventory System, Social Emotional Learning (SSIS-SEL). D11 9-10; Tr. 75 (Hutson). Ms. Hutson conducted no other assessments at this time. D11.

40. On May 23, 2025, Ms. Hutson e-mailed the Parents a draft triennial reevaluation for review (May 2025 draft reevaluation), and indicated that the IEP team was available to meet June 3, 2025. D11; Tr. 740 (Ms. Parent). See *also*, P8.

41. The May 2025 draft reevaluation assessed the Student in the following areas: general education, cognitive, medical-physical, reading, social/behavior, and written language. D11 p.6-11. See *also*, P8 p.6-11. The draft reevaluation included the results from the KTEA-3, SSIS-SEL, May 2024 SBA ELA and May 2024 STAR ELA. D11. See *also*, P8. The draft reevaluation did not include any teacher input or reference the Student's current educational records, report cards, or current IEP progress reports. D11. See *also*, P8.

42. In examining the cognitive capacity of the Student, the May 2025 draft reevaluation referenced the Student's June 2019 FSIQ score of 111, or high average. D11 p.6-7. See *also*, P8 p.6-7.

43. Regarding the Student's reading skills, the May 2025 draft reevaluation noted that on the KTEA-3, the Student scored average in reading comprehension (95) and silent reading fluency (103), and below average in letter & word recognition (84). D11 p.8-9. The draft reevaluation noted that the Student scored a 2673 (L4 – Exceeds/Met Standard) on the May 2024 SBA ELA assessment, and 64% (1111) on the May 2024 STAR ELA assessment. D11 p.6; D17 p.6; D18 p.1. See *also*, P8 p.6. The draft reevaluation noted that the Student's September 2024 IEP reflected that she had met all prior sixth grade reading goals, that her reading comprehension was based on grade level passages, and that her oral reading fluence of 118 wpm in September 2024 was within the above average range for peers her age in accuracy. D11 p.9. See *also*, P8 p.9.

44. Regarding the Student's writing skills, the May 2025 draft reevaluation noted that she scored average (100) on the KTEA-3 subtest of written expression. D11 p.11. See *also*, P8 p.11. The draft reevaluation further noted that the Student's September 2024 IEP indicated that the Student had a "solid understanding of paragraph and essay structure, and was working on revisions." D11 p.11. See *also*, P8 p.11.

45. Regarding the Student's social/behavior skills, the May 2025 draft reevaluation reflected that on the SSIS-SEL, the Student scored herself average in self-management, social awareness, and responsible decision making, and well below average in self-awareness and relationship skills, with an overall average score in core skills. D11 p.9-10. See *also*, P8 p.9-10. The draft reevaluation noted that the Student's September 2024 IEP indicated that she had "pretty good executive functions but may need occasional reminders." D11 p.10. See *also*, P8 p.10.

46. Under "Eligibility Decision," the May 2025 draft reevaluation concluded that the Student no longer met eligibility criteria to receive special education. D11 p.2. See *also*, P8 p.2. The draft evaluation provided:

[Student] continues to have the disabilities of both Dyslexia and ADHD. Data collected for this reevaluation do not indicate a continued AEI [adverse educational impact] for which specifically designed instruction is recommended. She most recently exceeded standard on the ELA SBA, Star reading data indicates inconsistent performances however the last two performances have been well within the average range of her peers when compared to a nationally normed sample of students her age, and data collected on standardized assessment indicates average reading comprehension, reading fluency, and written expression skills. [Student] continues to have below average reading skills however, multiple data points indicate she is not adversely impacted. Therefore, specially designed instruction is no longer recommended.

D11 p.2-3. See *also*, P8 p.2-3.

May 2025 – Parent Request for Updated Information

47. On Wednesday, May 28, 2025, after receiving the May 2025 draft reevaluation, the Student's Parents e-mailed Ms. Hutson and requested that she complete a current cognitive evaluation and obtain feedback from the Student's teachers regarding her current academic achievement, functional performance and current needs. D12 p.7. The Parents also requested that Ms. Hutson assess the Student's study/organizational skills, sensory challenges and listening comprehension. D12 p.7.

48. On Thursday, May 29, 2025, Ms. Hutson e-mailed the HRS front office and requested the Student's most recent STAR reports, and a teacher e-mail for purposes

of “completing a rating scale” for the Student. D7 p.1; Tr. 844-845 (Hutson). That same day, the HRS front office e-mailed Ms. Hutson the Student’s current STAR reports, and indicated that it copied the Student’s HRS advisory teacher on the e-mail “to clarify who will be responsible for completing the assessments.” D7 p.1.

Updated STAR Reports from HRS

49. The Student’s STAR ELA reports reflect that in May 2024, at the end of sixth grade, the Student scored a Level 3 (1111), or “comparable to those of a typical 8th grader at the beginning of the school year.” D17 p.6. In September 2024, at the beginning of seventh grade, the Student scored a Level 3 (1093), or “comparable to those of a typical 9th grader in the second month of the school year.” D17 p.8. In February 2025, the Student scored a Level 3 (1135), or “higher than 84% of Students in Grade 7 and . . . greater than a typical 12th grader in the ninth month of the school year.” D17 p.10.

HRS Teacher Feedback

50. On Thursday, May 29, 2025, around 3:50pm, Ms. Hutson e-mailed Katherine Boe, the Student’s reading and advisory teacher, a teacher feedback form consisting of a one-page “Behavior Assessment Scale” with six general questions, and provided an online link to a Pearson rating scale. D7 p.4, 6. See *also*, P10 p.2, 4, Tr. 845-846 (Hutson); Tr. 375-376 (Boe). Ms. Hutson requested that the information be completed by the end of the next day, and that she had a deadline of Monday, June 2, 2025. D7 p.6. See *also*, P10 p.4. Ms. Boe responded that HRS usually gives teachers two weeks to compile information for evaluations, but that she would do her best to return the evaluations by Monday. D7 p.9; P10 p.3; Tr. 377 (Boe).

51. On Friday, May 30, 2025, Ms. Hutson e-mailed Ms. Key, informed her that she was completing a triennial evaluation for the Student, that she had the September 2024 IEP and STAR reports, and that she was seeking updated information. P11 p.1. She attached a copy of the “Behavior Assessment Scale” she had previously sent to Ms. Boe, indicated that the form was a guide to the general information she was seeking, and requested that Ms. Key provide “some feedback as it relates to how the [Student is] doing socially, study/organizationally, and in the current qualifying areas of reading and writing.” P11 p.1-2. Ms. Hutson informed Ms. Key that she had a deadline of Monday, June 2, 2025. P11 p.1.

52. Ms. Key did not send any additional information to Ms. Hutson; she thought she sent the District the Student’s 2024-2025 IEP progress reports in May or June 2025, but failed to add them to an e-mail. P26; Tr. 664 (Key).

53. On Monday, June 2, 2025, Ms. Boe e-mailed Ms. Hutson, indicated that she was the Student's reading teacher, and attached a completed "Behavior Assessment Scale" form. D8; P10 p.13; Tr. 378, 379-386 (Boe). The form outlined six general questions regarding the student's "academic and/or behavior problems," which Ms. Boe answered as follows:

1. Does this student's behavior interfere significantly with his/her learning or with the normal educational process? Please check the appropriate box:

<u>Yes</u>	<u>No</u> X
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2. What are the student's major academic and/or behavior problems?

[Student] has impacted phonological awareness, which impedes her ability to encode/decode grade level material with automaticity. She particularly experiences challenges with reading aloud, oftentimes seeming to mentally read ahead which she is still orally processing the word she is currently decoding.

3. What attempts have been made to improve academic and/or behavior problems and which were successful?

[Student] benefits from structured literacy instructional methodology (isolating vowel sounds, separating syllables, falling back on previously learned spelling concepts) while engaging with encoding/decoding procedures. This has allowed [Student] to gain confidence in her spelling and reading abilities.

4. Any recommendations for further interventions or placements?

N/A

5. What do you see as the Student's strengths?

[Student] is incredibly hard working and organized. She is a school leader and lover of learning. She models enthusiasm in the classroom and asks great questions.

6. Please write a summary statement describing the student's behavior and functioning in your class. Attach additional comments, send work samples, etc., that you feel would be helpful.

[Student] is incredibly hard-working, organized, and motivated student. While she has impacted phonological awareness (thus impeding her ability to encode/decode with automaticity), [Student] has shown success with structured literacy procedures, allowing her to spell and read aloud with greater success. [Student] is someone who cares deeply about her academic

growth, and she will step up to ask [sic] task with the proper supports and procedures in place.

D8; P10 p.13; Tr. 378, 379-386 (Boe).

54. On June 2, 2025, Ms. Boe completed an SSIS-SEL for the Student. D13, p.22-23. See also, P12 p.23-24. While Ms. Boe would also usually conduct a Student observation and collect additional data in response to a reevaluation, she did not send Ms. Hutson any other information, explaining that she did not have enough time to do so within the short turn around requested by Ms. Hutson. Tr. 378-380 (Boe). Ms. Hutson did not receive or include input from any other teacher at HRS in the District reevaluation. D11; P10; Tr. 66-67, 810-812 (Hutson). See also, P12.

Communication Assessment

55. Sometime in June 2025, Natalie Miller, M.S., CCC-SLP, completed a communication assessment of the Student.¹¹ D13 p.14-19; P12 p.15-20. Ms. Miller implemented the Arizona Articulation and Phonology Scale, 4th Edition (Arizona-4) and the Oral-Written Language Scales, 2nd Edition (OWLS-II), both of which indicated that the Student performed within average range on her communication assessments. D13 p.14-19. See also, P12 p.15-20.

Updated WISC-V Cognitive Assessment

56. On June 2, 2025, Ms. Hutson completed an updated WISC-V cognitive assessment for the Student. P12 p.2, 14; Tr. 73 (Hutson). The Student scored average in verbal comprehension, fluid reasoning, working memory and processing speed, and high average in visual spatial, resulting in a full scale IQ of 107, in the average range. D13 p.12-14. See also, P12 p.13-15.

June 2025 - Draft Reevaluation

57. Also on June 2, 2025, Ms. Hutson e-mailed the Parents a draft reevaluation (June 2025 draft reevaluation). D13 p.1, 8-24. See also, P12 p.1, 9-25. The draft reevaluation assessed the Student in the areas of general education, cognitive, communication, reading, social/behavior, and written language. D13. See also, P12. Other than the SSIS-SEL completed by Ms. Boe, and some information from Ms. Boe's "Behavior Assessment Scale," the draft evaluation did not include any teacher input.

¹¹ The June 2025 draft reevaluation indicated that the communication assessment was completed on June 3, 2025. D13 p.14; P12 p.15. This is likely a typo, as the draft reevaluation was e-mailed to the Parents on June 2, 2025. D13 p.1; P12 p.1.

D13. See *also*, P12. The draft reevaluation also did not reference the Student's current educational records, report cards, or current IEP progress reports. D13. See *also*, P12.

58. Regarding the Student's social/behavior skills, the June 2025 draft reevaluation included the June 2025 SSIS-SEL assessment completed by Ms. Boe, which indicated that the Student scored average in self-awareness, self-management, and academic competence, and above average in social awareness, relationship skills, and responsible decision making, with an overall average score in core skills. D13 p.22-23. See *also*, P12 p.23-24.

59. Regarding the Student's general education, the June 2025 draft reevaluation included the Student's updated STAR ELA/reading assessment scores from January 2024 (1077), September 2024 (1093), and February 2025 (1135), without any explanation about how to interpret these scores. D13 p.12. See *also*, P12 p.13.

60. The June 2025 draft reevaluation did not contain any additional assessments of the Student's reading, but included Ms. Boe's comment that "[Student's] phonological awareness impedes her ability to encode and decode with automaticity particularly when reading aloud." D13 p.20-21. See *also*, P12 p.21-22. The June 2025 draft reevaluation did not contain any additional assessments of the Student's written expression skills and did not assess the Student's study/organizational skills. D13 p. 23-24. See *also*, P12 p. 24-25.

61. The June 2025 draft reevaluation included the results of the updated WISC-V cognitive assessment, and the communication assessment, both of which indicated that the Student performed within the average range cognitively and in communication skills. D13 p.12-14, p14-19. See *also*, P12 p.13-15, 15-20.

62. Under "Eligibility Decision," the June 2025 draft reevaluation again concluded that the Student no longer met eligibility criteria to receive special education or SDI, indicating that "data collected on standardized assessment indicates average reading comprehension, reading fluency, and written expression skills." D13 p.8-9. See *also*, P12 p.9-10.

June 2025 - Final Reevaluation

63. The reevaluation team met on June 16, 2025. D14. On June 18, 2025, the last day of school, and thirty-one school days after receiving the Parent's May 5, 2025

consent to reevaluate the Student, the District e-mailed the Parents a final reevaluation (June 2025 final reevaluation).¹² D16. See *also*, P16.

64. The June 2025 final reevaluation contained the assessments of the Student's general education, cognitive, communication, medical-physical, reading, social/behavior, and written language skills, as well as an assessment of the Student's study/organizational skills. D16. See *also*, P16. The final reevaluation did not include any teacher input other than from Ms. Boe, and did not reference the Student's current educational records, report cards, or current IEP progress reports. D16. See *also*, P16.

65. Regarding the Student's general education, the June 2025 final reevaluation included the Student's STAR ELA/reading assessment scores since 2021, and SBA ELA scores since 2022. D16 p.6-7. See *also*, P16 p.6-7. The final reevaluation noted that the results reflected that the Student scored L4/Exceeds Standards on the Spring 2025 SBA and met grade equivalency (GE) 12.9 on the STAR ELA/reading assessment in February 2025:

Smarter Balance Assessment Data (SBA)					
Spring 2025	ELA	Grade 7	2673	L4	Exceeds Standard
Spring 2024	ELA	Grade 6	2517	L2	Below
Spring 2023	ELA	Grade 5	2519	L3	Met Standard
Spring 2022	ELA	Grade 4	2471	L2	Below

Star Reading Enterprise Assessment					
Administered by Hamlin Robinson					
DATE	Subject	Score	Percentile	Level	GE
February 2025	Reading	1135	84%	3	12.9
September 2024	Reading	1093	68%	3	9.2
May 2024	Reading	1111	64%	3	8
January 2024	Reading	1077	48%	3	6.5
September 2023	Reading	1064	47%	3	6
May 2023	Reading	995	17%		
May 2022	Reading	436	29%		
February 2022	Reading	338	15%		
December 2021	Reading	286	10%		

¹² The record contains multiple identical copies of the June 2025 final reevaluation, all of which contain comments made during the June 16, 2025, reevaluation meeting. *Compare*, D15, p.7-27, p.23 with D16, p.2-24, p.18 and P16 p.2-24, p.18. The record references D16 and P16 as the June 2025 final reevaluation.

D16 p.6-7. See *also*, 16 p.6-7.

66. Regarding the Student's cognitive skills, the final June 2025 reevaluation noted that the Student scored average on the June 2, 2025 WISC-V assessment in verbal comprehension, fluid reasoning, working memory and processing speed, and high average in visual spatial, resulting in a full scale IQ of 107, in the average range. D16 p.8-10. See *also*, P16 p.8-10. The final reevaluation indicated that current cognitive results were a valid representation of the Student's true abilities. D16 p.8-10. See *also*, P16 p.8-10.

67. Regarding the Student's communication skills, the June 2025 final reevaluation included the results of the Arizona-4 and the OWLS-II assessments conducted by Ms. Miller on June 3, 2025. D16 p.10-13. See *also*, P16 p.10-13. The final reevaluation noted that the Student performed within average range on these assessments, and that SDI was not recommended for communication. D16 p.10-15. See *also*, P16 p.10-15.¹³

68. Regarding the Student's reading skills, the June 2025 final reevaluation noted that in the last five STAR ELA/reading assessments the Student scored a Level 3, and was currently reading at a 12.9 GE. D16 p.17-18;. See *also*, P16 p.17-18. The final reevaluation referenced the Student's September 2024 IEP, noting that the Student had met all of her reading goals at that time. D16 p.18. See *also*, P16 p.18. The final reevaluation further noted that Ms. Boe reported during the June 16, 2025, reevaluation meeting that the Student had increased her reading fluency from 118 wpm in September 2024, to 133 wpm in May 2025. D16 p.18. See *also*, P16 p.18. The reevaluation equated this increase in wpm with increasing her "DIBELS" reading fluency from 5-6 grade to 6-8 grade. D16 p.7, 18. See *also*, P16 p.7, 18.

69. The June 2025 final reevaluation included the Student's 2019 KTEA-3 scores in reading, where she previously scored low on both subtests of reading comprehension (71/3rd percentile) and letter & word recognition (73/4th percentile). D16 p.17. See *also*, P16 p.17. The final reevaluation noted that on the May 2025 KTEA-3 assessment, the Student scored average in reading comprehension (95/37th percentile) and silent reading fluency (103/58th percentile), and below average in letter & word recognition (84/14th percentile). D16 p.16-17. See *also*, P16 p.16-17.

¹³ On February 24, 2026, the parties filed a Joint Stipulation indicating that the Parents stipulated to the appropriateness of the communication portion of the reevaluation, and were not requesting an IEE at public expense of this portion of the District's June 2025 reevaluation. Joint Stipulation, filed 02/24/26 (OAH Administrative Record).

70. The June 2025 final reevaluation included some of Ms. Boe's comments from the "Behavior Assessment Scale" form regarding the Student's current reading limitations, including that the "[Student] has impacted phonological awareness, which impedes her ability to encode/decode grade level material with automaticity. She particularly experiences challenges when reading aloud, oftentimes seeming to mentally read ahead while she is still orally processing the word she is currently decoding." *Compare*, P10 p.13 with D16 p.6, 18. See also, P16 p.6, 18. The final reevaluation further noted Ms. Boe's comment that the Student benefits from "isolating vowel sounds, separating syllables, [and] falling back on previously learned spelling concepts . . . while engaging with encoding/decoding procedures." *Compare*, P10 p.13 with D16 p.6. See also, P16 p.6.

71. The June 2025 final reevaluation concluded that despite the Student's learning disability in reading, she was performing at and well above same aged peers, indicating that her below average basic reading skills were not interfering with her ability to read and gain meaning from what she read at the rate of same age peers. D16 p.18. See also, P16 p.18. Thus, the reevaluation concluded that SDI in reading was no longer recommended. D16 p.1-2, 18. See also, P16 p.1-2, 18.

72. Regarding the Student's written language skills, the June 2025 final reevaluation included the Student's 2019 KTEA-3 scores in writing, which indicated that she previously scored low on both subtests of written expression (75/5th percentile) and spelling (74/4th percentile). D16 p.21. See also, P16 p.21. The final reevaluation also referenced the Student's May 2025 KTEA-3 assessment, in which she received an average score (100/50th percentile) on the written expression subtest. D16 p.20-21. See also, P16 p.20-21.

73. The June 2025 final reevaluation noted that the Student exceeded standards on the Spring 2025 ELA SBA and referenced her September 2024 IEP, which indicated that she had a "solid understanding of paragraph and essay structure at that time, and was working on revisions." D16 p.21. See also, P16 p.21. The final reevaluation concluded that the Student was performing well within the range of her same aged peers in the area of writing, and that SDI was not recommended. D16 p.1-2, 21. See also, P16 p.1-2, 21.

74. Regarding the Student's social/behavior skills, the June 2025 final reevaluation contained 2025 SSIS-SEL results from the Student and Ms. Boe, noting both reached an average scores for the social/emotional composite and core skills. D16 p.18-20. See also, P16 p.18-20. The final reevaluation referenced the Student's September 2024 IEP, which indicated that the Student got along with peers, was cooperative, attentive and worked adequately with partners. D16 p.20. See also, P16 p.20. The final reevaluation also included comments from Ms. Boe which indicated that the Student's behavior did not interfere with her learning. *Compare*, P13 p.10 with

D16 p.20. See *also*, P16 p.20. The final reevaluation concluded that the Student's social/behavior was not affecting her educational performance or access to education, and thus SDI in this area was not recommend, but indicated that the Student could benefit from accommodations to address any educational concerns. D16 p.20. See *also*, P16 p.20.

75. The June 2025 final reevaluation did not included any standardized assessments addressing the Student's study/organizational skills. D16 p.20. See *also*, P16 p.20. Rather, the reevaluation noted that the September 2024 IEP indicated that the Student demonstrated "pretty good executive function, but may need occasional reminders," and that she was "a strong self-advocate." D16 p.20. See *also*, P16 p.20. The reevaluation concluded that SDI in this area was not recommended, but that the Student would benefit from continued accommodations as needed to further support her study/organizational skills. D16 p.20. See *also*, P16 p.20. The final reevaluation did not include any of Ms. Boe's comments about the Student's current study/organizational skills. *Compare*, P10 p13 with D16 p.20; Tr. 829 (Hutson). See *also*, P16 p.20.

76. The June 2025 final reevaluation concluded that the data collected across three years supported a conclusion that the Student had the academic skills in the areas of reading, writing and social/behavior to access and make gains at the rate of her general education peers. D16 p.3. See *also*, P16 p.3. The final reevaluation concluded that the Student no longer qualified for SDI in any area for which she previously qualified, and did not qualify in any additional areas. D16 p.3. See *also*, P16 p.3.

77. A Prior Written Notice (PWN) dated June 16, 2025, indicated that the District proposed to discontinue special education services for the Student effective June 23, 2025. D16 p.22. See *also*, P16 p.22. The PWN further indicated that the Parents, Ms. Key from HRS, and the Parents' attorney disagreed with the decision. D16 p.22. See *also*, P16 p.22.

June 2025 - Reevaluation Meeting

78. The June 16, 2025 reevaluation meeting was attended by the Parents, their attorney, Ms. Key, Ms. Hutson, Mr. Bittle, Natalie Miller (District Speech Language Pathologist (SLP)), and the District's attorney. Tr. 92, 818 (Hutson); Tr. 750, 792 (Ms. Parent); Tr. 917 (Mr. Parent); Tr. 646-647, 651 (Key); Tr. 180 (Bittle).

79. Mr. Bittle recalled attending the meeting, but had never met the Student and had no role in explaining the results of the reevaluation to the Parents. Tr. 180-181 (Bittle). Mr. Bittle recalled that during the meeting, Ms. Hutson explained the reevaluation and informed the Parents that while the Student had a learning disability,

it had no current adverse educational impact. Tr. 182-183 (Bittle). Mr. Bittle further recalled that the Parents provided input at the meeting, expressing disagreement with the District's decision, expressing that HRS was an appropriate placement, and outlining the Student's continued academic challenges. Tr. 181-182 (Bittle).

80. The Student's mother recalled that Ms. Hutson primarily spoke during the meeting and went through the reevaluation's conclusions that the Student no longer required special education services. Tr. 750-754 (Ms. Parent). The mother expressed that the reevaluation meeting felt scripted rather than collaborative, and that the parents, their attorney, and Ms. Key all attempted to ask questions and provide input, but that their questions and input were not considered. Tr. 754-758 (Ms. Parent). The mother further recalled that the Parents' attorney asked Ms. Hutson several times whether the Student's spelling was assessed within the KTEA-3 subtest in written expression, and that Ms. Hutson implied that it was scored in the subtest. Tr. 751-752 (Ms. Parent).

81. The Student's father recalled that Ms. Hutson provided no explanation during the meeting of her determination that the Student no longer required special education services and that the decision to exit her from services appeared to have already been made. Tr. 919-920 (Mr. Parent). The father recalled that the Parents' attorney asked Ms. Hutson perhaps 15-25 questions, but that Ms. Hutson did not provide detailed responses explaining her decision. Tr. 918 (Mr. Parent). Both parents recalled that Ms. Hutson expressed they could provide a written dissent. Tr. 758-759 (Ms. Parent); Tr. 920 (Mr. Parent).

82. During the reevaluation meeting, Ms. Key expressed the concerns of HRS of exiting the Student from special education services, as she was making progress when receiving SDI. Tr. 647-648 (Key). Ms. Key raised concerns that the District reevaluation only addressed the Student's reading comprehension, and did not address her foundation reading skills such as phonological awareness and phonics. Tr. 649-650 (Key). Ms. Key also raised concerns about the reevaluation, including that the Student's writing was below grade level, that the reevaluation did not take the Student's spelling into consideration. Tr. 651-652 (Key). Ms. Key recalled that the meeting felt rushed and that it felt that the District had predetermined the decision without any input from the Student's teachers or Parents. Tr. 657-658 (Key). Ms. Key also recalled that while Ms. Hutson did not address many of the Parents' concerns, she gave the impression that spelling was included in the KTEA-3 written expression subtest. Tr. 649, 653-654 (Key).

83. Ms. Hutson could not recall much of the reevaluation meeting, explaining that she was so traumatized by the questioning of the Parents' counsel that she blocked

out much of what occurred. Tr. 92-93, 109 (Hutson). She recalled that the Parents expressed concerns about the Student's abilities, but could not recall any specific questions by the Parents or Parents' counsel about the Student's foundational reading skills, whether she rushed the reevaluation, or whether she considered feedback from the Parents and HRS about the reevaluation. Tr. 93, 171-172 (Hutson). Ms. Hutson could not recall whether or not she mistakenly informed the Parents, or their counsel, that the May 2025 KTEA-3 written expression subtest also assessed the Student's spelling abilities. Tr. 169-171 (Hutson).

Ms. Hutson Testimony Regarding 2025 District Reevaluation

84. Ms. Hutson has worked as a school psychologist for over twenty years, and has worked for the District since 2013. Tr. 61-62 (Hutson); P58 p.8 (Hutson Deposition). She holds a Bachelor's in sociology/social work, an educational specialist degree and has been a nationally certified school psychologist for her entire career. Tr. 61 (Hutson); P58 p.9 (Hutson Deposition). Ms. Hutson conducts 50-80 special education evaluations each school year, and estimated that she conducted 83 evaluations during the 2024-2025 school year. Tr. 62 (Hutson).

85. Ms. Hutson scores the KTEA-3 test daily, administers the test in accordance with instructions, and reviews the manual in about one of every three to five tests. Tr. 77-78 (Hutson). Ms. Hutson opined that the KTEA-3 accurately reflects the general educational setting and assesses a student's global academic needs, as opposed to the WIAT (Wechsler Individual Achievement Test) which she believes does not evaluate a student's classroom experience and contains limited writing subtests. Tr. 75, 86 (Hutson).

86. Ms. Hutson uses the KTEA-3 to assess a student's reading skills because it includes sub-tests in basic reading (letter & word recognition), as well as reading comprehension and reading fluency. Tr. 75-76 (Hutson). At hearing, Ms. Hutson opined that that the Student's average scores on the 2025 KTEA-3 in reading comprehension and silent reading fluency were valid. D16 p.16-17; Tr. 78 (Hutson). See *also*, P16 p.16-17. Ms. Hutson acknowledged that the Student also tested below average in letter & word recognition on the 2025 KTEA-3, but opined that this merely confirmed that the Student had a known disability, not that it had an adverse educational impact. P8 p.9; D16 p.16; Tr. 78-79, 156-158 (Hutson). See *also*, P16 p.16.

87. Ms. Hutson opined that the DIBELS progress monitoring tool, an oral reading fluency assessment used for over 20 years, can accurately determine a student's grade equivalency reading fluency level based on current wpm reading rates. Tr. 72-73, 814-816 (Hutson). At hearing, Ms. Hutson acknowledged that she did not know

where she obtained the Student's reading fluency data of 133 wpm, but that she compared it to the DIBELS tool to obtain a grade equivalency. D16 p.7; Tr. 815 (Hutson). See *also*, P16 p.7. However, Ms. Hutson further acknowledged if a student's reading fluency/wpm is based on reading a below-grade level text, DIBLES would not provide an accurate grade equivalency comparison. Tr. 816-817 (Hutson).

88. Ms. Hutson uses the KTEA-3 subtest in written expression to assess a student's writing skills, opining that this subtest properly measured the Student's writing skills because it assessed grammar, writing mechanics, sentence structure, paragraph formation and contained an essay prompt. Tr. 83 (Hutson). Ms. Hutson acknowledged at hearing that this subtest does not score or assess a student's spelling skills, and that the KTEA-3 written language composite also includes a subtest on spelling. Tr. 89-90, 147 (Hutson). Ms. Hutson also acknowledged that she did not assess the Student's spelling in 2025, despite the fact her prior IEPs included spelling goals. D16 p.20-21; Tr. 87-88, 832-833 (Hutson). See *also*, P16 p.20-21.

89. Ms. Hutson could not recall at hearing why she did not assess the Student's spelling, speculating that she might not have had enough time. Tr. 88, 165-166, 832-836 (Hutson). However, Ms. Hutson emphasized that she would have assessed spelling had the Student's spelling on the KTEA-3 written expression subtest significantly impacted her ability to communicate in writing, such that she could not comprehend the Student's responses. Tr. 88, 165-166, 832-836 (Hutson). Ms. Hutson asserted that because she could understand the Student's written communication in the KTEA-3 written expression subtest despite spelling errors, and because it was already understood that the Student had a disability which would affect spelling, she did not feel it necessary to assess spelling. Tr. 91-92 (Hutson).

90. Ms. Hutson has not read the STAR assessment manual and does not know how the STAR ELA measures or defines grade equivalency, but opined that she could rely on the Student's current STAR ELA scores which indicated the Student was at or above grade level in reading. Tr. 95-96 (Hutson). Ms. Hutson emphasized the Student's STAR ELA tests reflected that she had increased her grade equivalency reading level from grade 6 to grade 12.9. D16 p.8; Tr. 72 (Hutson). See *also*, P16 p.8. Ms. Hutson further acknowledged that she does not know how the SBA ELA evaluates reading comprehension, but opined that the Student's L4 score was "not an accident," and reflected that she understood enough to read, write and comprehend grade level material. Tr. 155-156 (Hutson).

91. Regarding the Student's social/behavior skills, Ms. Hutson explained at hearing that she uses the SSIS-SEL to address a student's self-identified social and emotional skills, and that she also considered the SSIS-SEL completed by Ms. Boe in

the June 2025 final reevaluation. D16 p.18-20; Tr. 96-97 (Hutson). See *also*, P16 p.18-20. Ms. Hutson explained that this information indicated that the Student did not require any SDI in social/behavior skills. D16 p.18-20; Tr. 96-97 (Hutson). See *also*, P16 p.18-20.

92. Regarding the Student's study/organizational skills, Ms. Hutson explained that teacher comments in the September 2024 IEP raised no concerns about the Student's study/organizational skills, but instead indicated that she benefitted from accommodations. D16 p.20; Tr. 82-83 (Hutson). See *also*, P16 p.20. Ms. Hutson also asserted that she considered Ms. Boe's comments on the "Behavior Assessment Scale" about the Student's study/organizational skills, although she could not recall why she did not include these comments in the June 2025 final reevaluation. *Compare*, P10 p13 with D16 p.20; Tr. 829 (Hutson). See *also*, P16 p.20.

93. Ms. Hutson expressed that the totality of the Student's assessments, standardized test results, and teacher input as of June 2025 reflected that the Student was performing at or above her peers in reading and written expression, and that she had no difficulty in social/emotional skills. D16; Tr. 91-92, 104, 155, 167 (Hutson). See *also*, P16. Ms. Hutson opined that this indicated that the Student no longer required SDI in these areas. D16; Tr. 79-83, 90-92, 158 (Hutson). See *also*, P16.

94. Ms. Hutson could not recall at hearing whether, in reevaluating the Student, she reviewed the Student's current educational records, report cards, or IEP progress reports, but asserted that she could have reviewed current IEP goal progress because it was available in an online system called "IEP-O". P25; P26; Tr. 151-153 (Hutson). Ms. Hutson also could not recall why the Student's current IEP progress reports were not included in the June 2025 final reevaluation, but pointed out that she referenced the Student's 2024 IEP goals. D16; Tr. 159 (Hutson). See *also*, P16. Ms. Hutson also could not recall why the final reevaluation did not include the Student's unmet 2024 IEP goals in decoding, spelling, and editing. *Compare*, P23 p.5, 8-9 with D16; Tr. 164-165 (Hutson). See *also*, P16. Ms. Hutson did not consider delaying the reevaluation to permit HRS teachers more time to provide feedback, expressing that a triennial reevaluation cannot be delayed, even if parents agree to extend the date. Tr. 819 (Hutson).

June 2025 - IEE Request

95. On June 17, 2025, the Parents e-mailed the District indicating that they disagreed with the reevaluation, and requesting an independent educational evaluation (IEE) for the Student in the areas of reading, writing, cognitive and

social/behavioral. P18 p.2. The Parents also informed the District they had filed a due process hearing request. P18 p.2.

96. On June 26, 2025, the District requested a hearing on the IEE request.¹⁴

July 2025 - Parent and HRS Dissenting Opinions

97. On July 2, 2025, the Parents submitted a written dissent to the June 2025 final reevaluation. P16; P20; Tr. 762-764 (Ms. Parent). See *also*, D16. The Parents acknowledged the Student's progress reflected in STAR ELA and SBA ELA testing, but argued that evaluation data and classroom observations indicated that the Student experienced deficits in decoding and phonological processing which impacted her reading. P20 p.2. The Parents further argued that the District failed to test the Student in spelling, which impacted her writing skills. P20 p.2. The Parents argued that any gains reflected in standardized testing were made within a structured setting, which included ESY and 1:1 tutoring during the summer, which demonstrated the Student's continued need for SDI in reading and writing to reinforce her progress. P20 p.2-3.

98. The Parents further argued that Ms. Hutson unilaterally determined that the Student no longer required SDI without input from her current teachers regarding her reading and writing instruction. P20 p.2-3. The Parents argued that Ms. Hutson relied on conflicting data regarding the Student's progress, failed to consider the Student's reliance on scaffolded supports for reading, writing and executive functioning, and that the reevaluation was rushed and full of errors. P20 p.3-4.

99. On July 7, 2025, Ms. Key also submitted a dissenting opinion disagreeing with the District's decision to exit the Student from special education services. P19; Tr. 658-659 (Key). Ms. Key argued that several subtests related to reading development – phonological processing, nonsense word decoding, decoding fluency, and word recognition fluency – were not included in the reevaluation and were essential for forming a complete picture of the Student's reading skills and determining whether SDI was required. P19; Tr. 658-659 (Key). At hearing, Ms. Key intended to include a dissent related to the Student's writing skills, but failed to do so. Tr. 659 (Key).

September 2025 – Dr. Ferdico IEE

100. In August 2025, the Parents hired Dr. Daniela Ferdico, Psy.D,¹⁵ to complete an IEE of the Student. P28; P69; Tr. 471 (Ferdico). Dr. Ferdico completed her IEE on or

¹⁴ Special Education Due Process Hearing Request, filed 06/26/25 (OAH Administrative Record).

¹⁵ Dr. Ferdico has been a clinical psychologist since 1989, and has been a licensed psychologist in the State of Washington since 2000. P69; Tr. 467-468 (Ferdico). Since 2014, she has focused on diagnosis,

around September 16, 2025 (September 2025 IEE). P28 p.22. The IEE recommended that the Student continue to receive special education services in decoding, spelling and reading fluency, as well as accommodations for her ADHD. P28 p.17.

101. Dr. Ferdico interviewed the Student's mother and father, and reviewed the Student's 2019 and 2024 IEPs. P28; Tr. 496-497, 523-524 (Ferdico). Dr. Ferdico also administered WIAT-IV, the KTEA-3 subtest in spelling, the Feifer Assessment of Reading (FAR), the Feifer Assessment of Writing (FAW), and the Symptom Checklist-90-Revised (SCL-90-R). P28; Tr. 481-482 (Ferdico). Dr. Ferdico administered the tests according to the manufacturer instructions, and consulted the manual for each subtest administered on the KTEA-3. Tr. 482-483 (Ferdico).

102. Dr. Ferdico routinely administers the WIAT-IV because it tests both reading and writing and she believes it is more complex than the KTEA-3. Tr. 482, 500 (Ferdico). If there are additional reading concerns, Dr. Ferdico administers the FAR, which includes nonsense words and measures a student's phonological awareness, reading fluency and comprehension. P28 p.6-8; Tr. 482, 502-503 (Ferdico). If there are additional writing concerns, Dr. Ferdico administers the FAW, which measures the spelling and encoding of writing, as well as the process of writing. P28 p.9-10; Tr. 482, 512, 516 (Ferdico).

103. Regarding the Student's reading skills, the IEE reflected that the Student scored low average (89) on the Reading Composite of the 2025 WIAT-IV, with subtests of below average (84) in word reading and average (99) in reading comprehension. P28 p.5; Tr. 500-501 (Ferdico). On the FAR, the Student's total index score fell in the below average range (81), indicating that the Student struggled with phonemic awareness in reading. P28 p.8; Tr. 502-503 (Ferdico). Dr. Ferdico emphasized that while the FAR reflected that the Student had a good vocabulary, she scored extremely low on decoding incomplete words or understanding morphology. P28 p.8; Tr. 507-508 (Ferdico).

104. At hearing, Dr. Ferdico opined that the Student's test results on the August 2025 WIAT-IV Reading Composite, and the August 2025 FAR, indicated that she could not perform basic reading as compared to her peers. P28 p.8; Tr. 520 (Ferdico). Dr. Ferdico also opined that the Student would struggle without continued SDI in reading, especially as text became more complex in upper grades. Tr. 509-510 (Ferdico).

evaluations and neuropsychological assessments of clients from 18 months old to college age, including diagnosis of neurodevelopmental disorders such as Autism, ADHD and learning disorders. P69; Tr. 468-469, 470 (Ferdico). Dr. Ferdico conducts approximately 300 assessments a year, including 100 middle school assessments and 50-75 high school assessments. Tr. 468-469 (Ferdico).

105. Regarding the Student's writing skills, the September 2025 IEE reflected that the Student scored well below average (71) on the Written Expression Composite of the WIAT-IV, with subtests of average in sentence composition (96), well below average in spelling (70), and significantly below average (63) in the essay composition. P28, p.5. On the FAW, the Student scored a composite score of average (98), but also scored moderately below average (75) on the FAW Dyslexic Index, including subtests of significantly below average in isolated spelling (62) and average in homophone spelling (92). P28 p.9-10; Tr. 512-514 (Ferdico). The Student scored low on the August 2025 KTEA-3 subtest in spelling (70/2nd percentile). P28 p.4. The September 2025 IEE did not address Ms. Hutson's scoring of the Student's May 2025 KTEA-3 subtest in written expression, or a lack of a spelling subtest. P28.

106. At hearing, Dr. Ferdico opined that while the May 2025 KTEA-3 written expression subtest did not deduct for spelling, the Student scored low (70/2nd percentile), on the KTEA-3 subtest in spelling in August 2025, reflecting that her spelling had profound implications on her writing skills. P28 p.4; Tr. 473-474, 497-498 (Ferdico). Dr. Ferdico further opined that the Student's August 2025 WIAT-IV score of significantly below average (63) on the essay composition subtest more accurately reflected her writing skills, because the WIAT-IV subtest was more robust than the KTEA-3 written expression subtest. P28, p.5; P30 p.1; Tr. 499-500 (Ferdico).

107. Dr. Ferdico further opined at hearing that the Student's significant spelling difficulties as reflected in the August 2025 KTEA-3 subtest in spelling, and difficulties in essay composition as reflected in the August 2025 WIAT-IV essay composition subtest, indicated that the Student would struggle with writing as she entered higher grades which required more complex words and open ended prompts. P28, p.4-5; Tr. 520-521 (Ferdico). Based on these test results, Dr. Ferdico opined that the Student continued to require SDI in written expression. Tr. 520-521 (Ferdico).

108. The September 2025 IEE noted that the Student's SCL-90-R reflected no psychological concerns. P28 p.14-15; Tr. 516-517, 535-536 (Ferdico). The IEE did not assess the Student's study skills or executive functioning, although it noted that her ADHD would "impair the Student's ability to focus, organize and complete tasks, especially those requiring sustained attention to reading and writing," and recommended that she receive "accommodations for her ADHD." P28 p.17. At hearing, Dr. Ferdico expressed no opinion about the Student's study skills or executive functioning. Tr. 516-517 (Ferdico).

109. Dr. Ferdico's September 2025 IEE did not reference any of the Student's results on the SBA ELA or the STAR ELA/reading tests, the Student's report cards, or the Student's IEP progress reports. P28. At hearing, Dr. Ferdico acknowledged that she

did not review the Student's report cards, could not recall if she reviewed her test scores or class assignments, and had no knowledge of how the Student performed in the classroom or the curriculum used in her classes. Tr. 524-526, 537-538 (Ferdico).

110. Dr. Ferdico further acknowledged at hearing that she was not familiar with district wide seventh grade assessments or seventh grade ELA standards. Tr. 557-558 (Ferdico). Dr. Ferdico has never worked in a school building or as a school psychologist, and has spent no time in a middle school classroom in the past five years. Tr. 558 (Ferdico). Dr. Ferdico met the Student only twice during testing, never spoke with the Student's teachers, and never observed her in the classroom. Tr. 528, 524, 535, (Ferdico). Dr. Ferdico acknowledged that she was not aware of the criteria used to determine eligibility for special education services under the IDEA, only opining that it involved more than just accommodations of a disability. Tr. 543-544 (Ferdico).

August 2025 – Review of Reevaluation and KTEA Scoring (Pepin)

111. In August 2025, Kim Pepin,¹⁶ a school psychologist, reviewed the District's June 2025 final reevaluation for the Parents. P17 p.33-42; P75; P77; Tr. 247-248 (Pepin). As part of this review, Ms. Pepin examined the Student's 2022, 2023 and 2024 IEPs, the Parent's reevaluation consent form, the Student's May 2025 KTEA-3 written expression test, the District's May 2025 draft reevaluation and June 2025 final reevaluation, the Parents' and Ms. Key's dissents, Dr. Ferdico's IEE, and Ms. Hutson's October 2025 deposition transcript. P5; P8; P15; P16; P17 p.33-42; P19; P20; P21; P22; P23; P28; P30; P58; Tr. 242, 244-248 (Pepin). Ms. Pepin also rescored the Student's May 2025 KTEA-3 written expression subtest. P17 p.33-42; P75 p.2; Tr. 249-250, 255-256 (Pepin).

112. Ms. Pepin disagreed with the District's conclusion in the June 2025 final reevaluation that the Student did not require SDI in reading. D16 p.3; Tr. 277-279, 281-282, 286 (Pepin). Ms. Pepin acknowledged that the Student scored L4 on her 2025 SBA ELA, and scored a Level 3 (1135) on her February 2025 STAR ELA assessment, but opined that this simply reflected the Student had received good instruction and could test well. D17; Tr. 282-284 (Pepin). Ms. Pepin emphasized that neither the SBA ELA, nor the STAR ELA/reading assessment, evaluated decoding or phonemic awareness, and that the Student's continued challenges in basic reading

¹⁶ Ms. Pepin is an ESA-certified School Psychologist with 40 years of experience with Pre-K to grade twelve students. P70; Tr. 240-241 (Pepin). She worked as an elementary classroom teacher for five years, and as a school psychologist in the public school setting since 1986. *Id.* Ms. Pepin conducts comprehensive psychoeducational assessments and special education evaluations for students, and has conducted 5-10 middle school evaluations per year for the past 40 years. Tr. 241-242 (Pepin). She has experience in using evaluation results to assist in developing student interventions, IEPs, Functional Behavior Assessments (FBAs) and Behavior Intervention Plans (BIPs). P70.

would adversely impact her access to general education at the high school level when the material became more difficult. Tr. 282-286, 287-288, 337 (Pepin).

113. Ms. Pepin also disagreed with the June 2025 final reevaluation's conclusion that the Student did not require SDI in writing. D16; Tr. Tr. 277-279, 281-282 (Pepin). Ms. Pepin routinely uses the KTEA-3 in initial evaluations, and has scored the KTEA-3 written expression subtest for grades 6-12 between 200-300 times. Tr. 248-249 (Pepin). At hearing, Ms. Pepin opined that the Student's May 2025 KTEA-3 written expression subtest was not average for a seventh grader, but was more similar to fourth grade ability. P17 p.33-42; Tr. 267-268 (Pepin). Ms. Pepin opined that the subtest reflected multiple errors including sentence fragments, run-on sentences, lack of logical flow, fused sentences, lack of appropriate punctuation, and lack of appropriate conjugation. P17 p.33-42; P75; P77; Tr. 266 (Pepin). Ms. Pepin also noted that the Student's subtest also reflected significant spelling errors, but conceded that no points are deducted unless the scorer cannot decipher the words. P17 p.33-42; P75; P77; Tr. 266 (Pepin).

114. Using the Student's original May 2025 testing data on the KTEA-3 subtest in written expression, Ms. Pepin re-scored the test and calculated an average score (91). P28, p.4; P75 p.2; Tr. 249-250, 255-256 (Pepin). Combining this score with the low score (70) on the Student's August 2025 KTEA-3 spelling subtest completed by Dr. Ferdico, Ms. Pepin calculated a written language composite of below average (80). P28, p.4; P75 p.2; Tr. 252-253 (Pepin). Ms. Pepin acknowledged that the May 2025 subtest in written expression, and the August 2025 subtest in spelling, were not administered at the same time but opined that difference between test dates should only change the composite score by 1-2 points. P27 p.2; Tr. 252-253 (Pepin).

115. Ms. Pepin further opined that the District's failure to test the Student's spelling, despite the fact that the Student's IEP goals included spelling, indicated that the District's June 2025 final reevaluation was not sufficiently comprehensive. D16; Tr. 281, 287-288 (Pepin). See *also*, P16. Ms. Pepin opined that spelling is resistant to instruction, has a long-lasting impact on reading and writing in classroom assignments, and the Student's continued challenges in spelling would impede her ability to write. Tr. 270-271 (Pepin). Ms. Pepin opined that the Student required SDI in written expression, especially in spelling, and that she was at a high risk of frustration in upper middle school and high school without SDI in writing. Tr. 271-272 (Pepin).

116. Ms. Pepin opined that the Student likely did not require SDI in social/emotional skills as there was no indication of any concerns in this area. Tr. 330 (Pepin). However, Ms. Pepin expressed that the SSIS-SEL used in the District's reevaluation did not address ADHD difficulties, executive functioning, or study skills. P16 p.18; Tr. 291-295

(Pepin). She opined that she would have instead used either the BASC-III or the Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-II), both of which assess ADHD symptoms. P16 p.18; Tr. 291-295 (Pepin). Ms. Pepin did not offer an opinion of whether the Student required SDI in study/organizational skills, emphasizing that the reevaluation did not contain enough information to assess the Student in this area. Tr. 330 (Pepin).

117. Ms. Pepin further opined that the June 2025 final reevaluation was also flawed because it did not include any current teacher feedback, information about the Student's current performance in the educational setting, current grades, or current progress on IEP goals. D16; P16; Tr. 288-289, 308-309 (Pepin). Ms. Pepin also expressed concern that the District's May 2025 draft reevaluation appeared to have already made the determination that the Student was not eligible for SDI prior to a meeting between the Parents, general education teachers and special education teachers to discuss the reevaluation. P8; Tr. 273-275 (Pepin).

118. Ms. Pepin acknowledged at hearing that she did not meet the Student, administer any tests to the Student, observe her in the classroom, or speak with any of her teachers. Tr. 307-308 (Pepin). Ms. Pepin also has no personal knowledge of how the Student performs in the classroom. Tr. 308-309 (Pepin).

September 2025 – KTEA-3 Rescoring (Dr. Ferdico)

119. In late September 2025, after the September 2025 IEE was conducted, Dr. Ferdico's psychometrist, Nicole Paschal,¹⁷ re-scored the Student's May 2025 KTEA-3 written expression subtest conducted by Ms. Hutson. P17 p.33-42; P30 p.2-3; Tr. 475-479, 548 (Ferdico). On December 8, 2025, Dr. Ferdico also re-scored the Student's May 2025 KTEA-3 written expression subtest. P17 p.33-42; P30 p.2-3; Tr. 475-479, 549 (Ferdico).

120. Dr. Ferdico and Ms. Paschal reached the same average score (94) on the Student's May 2025 KTEA-3 written expression subtest. D76 p.2; Tr. 475-476, 479-481, 548-549 (Ferdico). Combining the May 2025 re-scored average (94) on the written expression subtest, with the August 2025 KTEA-3 below average score (70) on the spelling subtest, Dr. Ferdico calculated a KTEA-3 written language composite of below average (82). P76 p.2; (Ferdico).

¹⁷ Ms. Paschal holds a Masters of Arts in Teaching (MAT) and has training in scoring the KTEA-3 and WIAT-4, including taking classes provided by the publisher and observation of and training by Dr. Ferdico. P30 p.2; Tr. 474-475, 482-483 (Ferdico).

Comparison of KTEA-3 Written Expression Subtest Scores

121. At hearing, Dr. Ferdico compared her re-scored KTEA-3 written expression subtest with Ms. Pepin's re-scored KTEA-3 written expression subtest. P76; Tr. 475-476 (Ferdico). Dr. Ferdico explained that while her average score of 94 was not much different from Ms. Pepin's average score of 91, she was not sure how Ms. Hutson reached her average score of 100, opining that a difference of 6 points between independent scorers was not considered "normal." P17 p.33-42; P30 p.3; P75; P76; P77; Tr. 475-476 (Ferdico).

122. Dr. Ferdico further emphasized that both she and Ms. Pascal used the same KTEA-3 manual, and reached the same average score (94), on the written expression subtest. . D76 p.2; Tr. 475-476, 479-481, 548-549 (Ferdico). Pointing to eleven subjective items on the Student's the KTEA-3 written expression subtest where she and Ms. Paschal disagreed with Ms. Hutson's scoring, Dr. Ferdico opined that Ms. Hutson's score of average (100) was inconsistent with manual instructions. P30 p.3; P17 p.2; Tr. 475-476 (Ferdico). However, Dr. Ferdico did not explain how the KTEA-3 manual requires these items to be scored or why it was improper for Ms. Hutson to score them differently. P30 p.3; P17 p.2; Tr. 475-476 (Ferdico).

123. The graphs below outline the KTEA-3 written expression composites obtained by combining the subtests conducted by Dr. Ferdico, Ms. Pepin, and Ms. Hutson:

Pepin Report

	Standard Scores	Percentile Rank	Descriptive Category	Grade Equivalent
Written Language Composite	80	9	Below Average	
Written Expression subtest* *rescored by Pepin with 05/23 date	91	27	Average	4.9
Spelling subtest** **scored by Ferdico 08/23	70	2	Below Average	3.0

Ferdico Report

	Standard Scores	Percentile Rank	Descriptive Category	Grade Equivalent
Written Language Composite	82	12	Below Average	
Written Expression subtest* *rescored by Ferdico with 05/23 date	94	34	Average	5.4
Spelling subtest** **scored by Ferdico 08/23	70	2	Below Average	3.0

District/Hutson Report

	Standard Scores	Percentile Rank	Descriptive Category	Grade Equivalent
Written Language Composite	80	9	Below Average	
Written Expression subtest* *scored by Hutson 05/23	100	50	Average	7.9
Spelling subtest** **scored by Ferdico 08/23	70	2	Below Average	3.0

P75; P76; P77.

Teacher Testimony – Student Progress

Lindsey Key (HRS Director of Teaching and Learning)

124. Ms. Key,¹⁸ HRS Director of Teaching and Learning, created the Student's 2022 and 2024 IEP goals in decoding, reading comprehension, reading fluency, organization, spelling, and sentence and paragraph composition. P26; Tr. 627-636 (Key); Tr. 883 (LeMasson). Ms. Key assessed the Student's 2024-2025 mid-year progress in all IEP goals, and end-of year progress in spelling and sentence and paragraph composition, using the STAR CMB test to assess reading fluency, and a paper test she created to assess decoding. Tr. 663 (Key). Ms. Key additionally observed the Student about 5-6 times during the 2024-2025 school year, for thirty minutes each time, in reading, writing and math class, and supervised SBA testing. Tr. 583, 662-663, 661 (Key).

125. At hearing, Ms. Key disputed the validity of the District's June 2025 final reevaluation and its conclusion that the Student no longer required SDI in any area. Tr. 587-588, 647-652 (Key). Regarding the Student's reading skills, Ms. Key observed that the Student loses comprehension as text becomes more complex to decode, and opined that an accurate overall assessment of the Student's reading skills would include the foundational reading and reading fluency. Tr. 626-627, 649-650 (Key). Ms. Key expressed concerns at the June 2025 reevaluation meeting that the Student's writing was "significantly . . . below grade level", and that her spelling had a "massive impact" on her writing, and opined that she still required SDI in written expression. Tr. 651-652, 588 (Key). Ms. Key further expressed concerns about the Student's executive

¹⁸ Ms. Key holds a Master's in Special Education, is endorsed in K-12 special education, worked in public schools for ten years prior to working at HRS, where she worked as a special education teacher in a general education classroom and taught resource classes including executive functioning and study skills. P71; Tr. 565-568 (Key). Ms. Key has worked at HRS since 2016 both as a teacher and as the HRA Director of Teaching and Learning, and trains HRS teachers in the Slingerland method. P71; Tr. 567, 569-570, 573 (Key).

functioning skills, emphasizing that she is currently heavily supported by the HRS advisory class to maintain progress on assignments. Tr. 588 (Key). Ms. Key opined that the Student would not be as organized without these specialized supports. Tr. 588 (Key).

126. Ms. Key acknowledged that the Student's September 2024 STAR ELA test indicated that her score was comparable to a typical 9th grader, but emphasized that the Student performed below grade level in several testing areas reflecting beginning levels of mastery. D17 pp.8; Tr. 667-671 (Key). Ms. Key acknowledged that the Student's February 2025 STAR ELA test score was greater than a typical 12th grader, and that she tested well in all areas, but asserted Student tested "unusually high." D17 pp.8, 10; Tr. 668-671, 686 (Key). Ms. Key acknowledged that HRS uses the STAR ELA to track student progress, but opined that the test was "flawed" because it only tests reading comprehension, not reading fluency or foundational reading skills, and that the Student's scores simply represented her ability to take a test. D17 p.8; Tr. 670-671 (Key).

127. Ms. Key further disputed that the Student's STAR CBM reading fluency score of 133 wpm translated to a DIBELS grade equivalency of 6-8 grade. D16 p.18-19; Tr. 607-608 (Key). See also, P16 p.18-19. Ms. Key emphasized that the STAR CBM only measures fluency up to sixth grade text levels, and thus the Student's 133 wpm score in seventh grade was "deceptively high." Tr. 614 (Key). Ms. Key asserted that HRS has not used the DIBELS tool for several years, that there is no grade equivalency in the STAR CBM, and that no one at HRS would have provided a grade equivalency reading fluency/wpm score to the District based on the STAR CBM. Tr. 608-609 (Key).

128. Ms. Key also disputed the validity of the Student's L4 score on the Spring 2025 SBA ELA, taken during seventh grade. P16 p.7; Tr. 671-672 (Key). Ms. Key initially asserted that the seventh grade SBA ELA only focuses on multiple choice and reading, and was less comprehensive than the sixth grade SBA ELA test which includes a full writing section. P46; Tr. 593, 596-597 (Key). However, Ms. Key later acknowledged that she was unfamiliar with SBA ELA scoring guidelines, and was unsure whether the 2025 SBA ELA tested seventh grade writing skills. P46 p.57, 59; Tr. 675-676 (Key).

Katie Boe (HRS Reading and Advisory Teacher)

129. Ms. Boe¹⁹ taught the Student's Reading Level 7 and Advisory Level 7 classes at HRS, and also measured the Student's progress toward IEP goals with assistance

¹⁹ Ms. Boe previously worked as a teacher at HRS, and currently works as a general education teacher in a public school. Tr. 357, 374, 448. She received both Slingerland 1 and Slingerland 2 training at HRS, and received oversight and observations from Ms. Key. Tr. 357-58, 361-362 (Boe). Ms. Boe is not a special education teacher, but receives monthly training and oversight from other HRS teachers who are both licensed as special education teachers and certified in the Slingerland method, including Ms. Key. Tr. 370-371, 372 (Boe); Tr. 574 (Key).

from Ms. Key. P26; Tr. 363, 397-398 (Boe). The Reading Level 7 class meets common core reading standards, but utilizes modified instruction and content, including Slingerland pre-reading strategies such as decoding and encoding words, reading out loud in class, and fourth grade level texts. Tr. 363, 415-417 (Boe). The Advisory Level 7 class delivers lessons in executive function and strategies to help support student functioning, including requiring students to maintain a planner signed daily by teachers to ensure that students complete and remain on track with assignments. Tr. 373-374, 413-414 (Boe).

130. Ms. Boe disputed the District's June 2025 final reevaluation and conclusion that the Student no longer required SDI in reading. Tr. 370, 372-373 (Boe). Ms. Boe acknowledged that the Student's September 2024 STAR ELA reflected ninth grade level reading comprehension, but emphasized that this test did not measure reading fluency. D17 p.1; Tr. 419, 433, 447 (Boe). Ms. Boe observed that even with the additional Slingerland structured literacy supports provided in the Reading Level 7 class, the Student continued to demonstrate difficulty in decoding and fluency when reading text out loud at the end of the year, including when reading fourth grade texts. Tr. 367-370 (Boe).

131. Ms. Boe agreed with Ms. Key's July 7, 2025, dissent that the District had failed to test the student in phonological processing, nonsense words, decoding fluency, and word recognition fluency. P19; Tr. 403-404 (Boe). Ms. Boe further asserted that the STAR CBM reading fluency test only measures up to sixth grade, and expressed that she did not understand how her score of 133 wpm could be converted to a DIBELS 6-8 grade equivalent reading fluency. Tr. 420, 443-44 (Boe). Ms. Boe opined that at the end of the 2024-2025 school year, the Student was not ready to enter a general education setting without SDI in reading. Tr. 446 (Boe).

132. Regarding the Student's study/organizational skills, Ms. Boe acknowledged that the Student was organized, emphasizing that the average seventh grader did not demonstrate the Student's ability to coordinate homework with multiple sports, and that the Student's planner usually looked "immaculate." P10 p.13; Tr. 386 (Boe). However, Ms. Boe also observed that by the end of the 2024-2025 school year, the Student required daily reminders and nagging because she would not use her planner. Tr. 394-395, 401-402 (Boe). Ms. Boe opined at hearing that while the Student demonstrated organizational strengths within the structured community of HRS, she was concerned that she would not be successful in public school without these supports. Tr. 374-375 (Boe).

Kiah LeMasson (HRS Writing Teacher)

133. Kiah LeMasson²⁰ taught the Student's Writing Level 7 class at HRS. Tr. 861 (LeMasson). The Writing Level 7 class is taught using Slingerland methods such as extra scaffolding, including breaking down the steps of the writing process, visual spelling rules and vowel patterns displayed on classroom walls, peer review and editing, on-line editing, and teacher editing and final review. P66; Tr. 866-867 (LeMasson). The Student's Writing Level 7 class was additionally considered a "structured writing" class, and was taught at a slower pace with modified content and two essays rather than three. Tr. 861-862 (LeMasson). HRS no longer offers "structured writing"; rather all students are served in the same grade leveled writing class. Tr. 892-893, 903-904 (LeMasson).

134. Ms. LeMasson disputed the District's determination that the Student no longer required SDI in writing. Tr. 888-889 (LeMasson). Ms. LeMasson observed that the Student required "a lot of help" with spelling, and additional assistance with organization of ideas, and writing mechanics such as spelling, sentence structure and punctuation. Tr. 864 (LeMasson). Ms. LeMasson observed that while the Student had good ideas and performed well on final drafts with peer review and reminders, she did not complete assignments independently, and expressed that she fell in the middle of the class in her writing abilities, even in the "structured writing" class which was taught at a slower pace. Tr. 864-865 (LeMasson).

135. Ms. LeMasson opined that general education instruction could not provide the type of scaffolding the Student received in the HRS writing class, and that the Student would not be as successful in a general education writing class without these supports. Tr. 888 (LeMasson). However, Ms. LeMasson acknowledged that she has never taught in public school and is not familiar with general education writing standards. Tr. 906 (LeMasson). Ms. LeMasson recalled that at the end of May 2025, she was asked to provide teacher feedback for the reevaluation, but asserted that she did not have enough time to do so. Tr. 890-891 (LeMasson).

Expert Witness Testimony

Annemarie Noel Hutson (District School Psychologist)

²⁰ Ms. LeMasson received endorsements in special education and general education and is licensed in Washington State to teach K-8 general education. Tr. 857-858 (LeMasson). She began working for HRS after college, is currently in her second year of teaching at HRS, and teaches reading, writing and advisory classes. Tr. 857-859 (LeMasson). Ms. LeMasson received training in the Slingerland method, including 133 hours of training, classroom observation and feedback by teachers certified to train teachers in the Slingerland method. Tr. 860, 880-881 (LeMasson).

136. The District presented Ms. Hutson as an expert witness to testify regarding the appropriateness of the District's reevaluation. Tr. 61-62 (Hutson); P58 p.8-9 (Hutson Deposition). Ms. Hutson has been a nationally certified school psychologist for her entire career, worked as a school psychologist for the District since 2013, and conducts approximately 50-80 special education evaluations each year. Tr. 62 (Hutson). Therefore, she has sufficient training and experience to conduct and interpret the results of assessments, review student records and standardized test results, review IEP progress, observe students, communicate with teachers, complete a special education evaluation, and make special education recommendations.

137. Ms. Hutson reviewed the Student's standardized school test results since 2021, reviewed the Student's educational records, September 2024 IEP, and input from the Student's Parents and Ms. Boe, and met and assessed the Student in person on May 19, 2025 and June 2, 2025. D16; Tr. 73-75 (Hutson). See *also*, P16. However, Ms. Hutson did not work with the Student's teachers or observe the student in the classroom setting, only obtained limited teacher input the Student's reading and advisory teacher, and received no input from the Student's writing teacher. D16; Tr. 151-153, 159, 164-165 (Hutson). See *also*, P16. Ms. Hutson only gave a few days for teacher input, and did not consider delaying the reevaluation to permit HRS teachers more time to provide feedback. D16; Tr. 151-153, 159, 164-165, 819 (Hutson). See *also*, P16. Ms. Hutson also did not review or include any of the Student's grades or current IEP progress reports. D16; Tr. 151-153, 159, 164-165 (Hutson). See *also*, P16. Finally, Ms. Hutson conducted no formal assessment of the Student's study/organizational skills, relying solely on comments in the September 2024 IEP. D16 p.20. See *also*, P16 p.20.

138. For these reasons, I accord limited weight to weight to Ms. Hutson's opinions regarding the appropriateness of the assessments conducted for the June 2025 final reevaluation, especially to the lack of assessments for written language and spelling, and study/organizational skills. I also give limited weight to Ms. Hutson's opinions regarding the appropriateness of the June 2025 reevaluation's conclusion that the Student no longer required SDI in any area.

Dr. Ferdico (Clinical Neuropsychologist)

139. The Parents called Dr. Ferdico as an expert witness to assess the appropriateness of the District's reevaluation and the scoring on the KTEA-3. P28; P30; P76; P77; Tr. 471 (Ferdico). Dr. Ferdico has been a clinical psychologist since 1989, a licensed psychologist in the State of Washington since 2000, and since 2014 has focused on diagnosis, evaluations and neuropsychological assessments of clients from 18 months old to college age. Tr. 467-470 (Ferdico). Dr. Ferdico interviewed the

Student's mother and father, met the Student twice during testing, and reviewed her 2019 and 2024 IEPs. P28; Tr. 496-497, 523-524 (Ferdico). Dr. Ferdico also implemented standardized assessments in August 2025, and rescored the Student's May 2025 KTEA-3 written expression subtest. P28; P76; Tr. 496-497, 523-524 (Ferdico).

140. Because Dr. Ferdico has sufficient training and experience to conduct and interpret the results of standardized assessments, I accord significant weight to her opinions regarding the results of her assessments of the Student in written language. I also accord significant weight to her opinion that the District's reevaluation was inappropriate because it did not comprehensively assess the Student's written language and spelling skills.

Kim Pepin (School Psychologist)

141. The Parents also called Ms. Pepin as an expert witness to assess the appropriateness of the District's reevaluation and the scoring on the KTEA-3. D16; P16; Tr. 246, 275-298 (Pepin). Ms. Pepin is an ESA-certified School Psychologist with 40 years of experience with Pre-K to grade twelve students, conducts comprehensive psychoeducational assessments for student in preparation for IEPs, and uses evaluation results to help develop interventions and IEPs for students. P70; Tr. 240-242 248-249 (Pepin). Therefore, she has sufficient training and experience to conduct and interpret the results of assessments, review student records and standardized test results, complete a special education evaluation, and make special education recommendations.

142. While she did not meet or interview the Student, Ms. Pepin reviewed more extensive records than Dr. Ferdico. Among other documents, Ms. Pepin reviewed the Student's 2022, 2023 and 2024 IEPs, the Student's May 2025 KTEA-3 written expression test, the District's May 2025 draft reevaluation and June 2025 final reevaluation, Ms. Key's and the Parents' dissents, and Dr. Ferdico's IEE. P8; P16; P17 p.33-42; P19; P20; P21; P22; P23; P28; P30; P58; Tr. 242, 244-248 (Pepin). Ms. Pepin also rescored the Student's May 2025 KTEA-3 written expression subtest. P17 p.33-42; P75 p.2; Tr. 249-250, 255-256 (Pepin).

143. Based on these facts, I accord significant weight to Ms. Pepin's opinions that the District's reevaluation was inappropriate because it did not comprehensively assess the Student's written language and spelling or study/organizational skills, and because it failed to include current teacher feedback, performance in the educational setting, or IEP progress.

Lindsey Key (HRS Director of Teaching and Learning)

144. The Parents also called Ms. Key as an expert witness to assess the appropriateness of the District's reevaluation. Tr. 587-588, 647-652 (Key). Ms. Key is a special education teacher, created and assessed the Student's 2024-2025 IEP goals, and observed the Student several times during the 2024-2025 school year. P26; Tr. 583, 627-636, 662-663, 661 (Key). Based on these facts, I find that Ms. Key has the training and experience necessary to evaluate the Student's current progress toward IEP goals and accord significant weight to her opinion that the Student's spelling had a "massive impact" on her writing, and that the District's decision to exit the Student from special education services was made with limited teacher input about the Student's progress and needs. Tr. 651-652, 657-658, 688 (Key).

145. However, Ms. Key is not a school psychologist and thus does not have the training and qualifications to conduct standardized assessments or complete an evaluation of a Student's eligibility for special education services. Further, while Ms. Key opined that the STAR ELA/reading assessment is flawed, and that the Student's test results were "unusually high" and based on guessing at questions, HRS itself relies on this test to measure a Student's progress in reading comprehension. Ms. Key disputed the validity of the Student's L4 score on the Spring 2025 SBA ELA, but acknowledged she was unfamiliar with SBA scoring guidelines. Ms. Key also offered no opinion on the Student's overall reading and writing abilities as assessed by the KTEA-3. For these reasons, I accord less weight to Ms. Key's opinions that the District's reevaluation inappropriately assessed the Student's reading skills.

September IEE - Claimed Expenses

146. The Parents are seeking reimbursement of the cost of Dr. Ferdico's IEE. P29 p.3; Tr. 733-734 (Ms. Parent). The total claimed expenses are outlined below:

Date of Service	Service	Time/hours (\$600/hr)
08/19/25	Review of previous testing	1
08/19/25	Meeting with mom	0.5
08/25/25	Academic interview Dr. Ferdico/Student	0.5
08/25/25	Testing & scoring	3
08/27/25	Testing & scoring	3
09/03/25	Testing & scoring	1
09/13/25	Report writing	5

09/16/25	Meeting with mom for results	1
09/23/25	Scoring KTEA from school Written	2
12/08/25	Dr. Ferdico scoring KTEA Written	2
12/30/25	Creation of KTEA Spreadsheet	1
01/24/26	Reading through KTEA Manual, looking through software to find item level scores	1
01/24/26	Updating spreadsheet with total scores & details	0.5
TOTAL REIMBURSEMENT SOUGHT BY PARENTS		21.5 x \$600/hr \$12,900.00

P29 p.3; Tr. 733-734 (Ms. Parent); Tr. 495, 553, 561 (Ferdico).

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

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

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

The IDEA and FAPE

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

4. In *Rowley*, the U.S. Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the IDEA. The first question is whether the state has complied with the procedures set forth in the IDEA. The second question is whether the IEP developed under these procedures is reasonably

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

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

In other words, the school must implement an IEP that is reasonably calculated to remediate and, if appropriate, accommodate the child’s disabilities so that the child can “make progress in the general education curriculum,” 137 S. Ct. at 994 (citation omitted), taking into account the progress of his non-disabled peers, and the child’s potential.

M.C. v. Antelope Valley Union High Sch. Dist., 858 F.3d 1189, 1201 (9th Cir.), *cert. denied*, 583 U.S. 1039, 138 S. Ct. 556 (2017).

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

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

- (a) impeded the child’s right to a free appropriate public education;
- (b) 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
- (c) caused a deprivation of educational benefits.

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

Issue a – Whether the District’s Reevaluation of the Student was Inappropriate²¹

8. The Parents assert that the District’s reevaluation of the Student was inappropriate. For the reasons outlined below, I find that the District failed to properly evaluate the Student and that this impeded her right to receive a FAPE. Therefore, the

²¹ The Parents’ issue statement refers to the May 2025 reevaluation, but this order addresses the District’s June 2025 final reevaluation rather than the draft reevaluations issued in May 2025 and June 2025.

reevaluation was not appropriate and the Parents are entitled to an IEE at public expense.

IDEA and Reevaluations

9. The IDEA requires that special education reevaluations be conducted at least every three years, unless the parent and the district agree that a reevaluation is unnecessary. WAC 392-172A-03015(2)(b). See *also*, 34 CFR § 300.303, In this case, the Parents and District did not agree that a reevaluation was unnecessary.

10. Evaluations and reevaluations must comply with the requirements in WAC 392-172A-03020. This regulation provides:

“In conducting the evaluation, the group of qualified professionals selected by the school district must . . . [u]se a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining . . . [w]hether the student is eligible for special education services as defined in WAC 392-172A-01175.”

WAC 392-172A-03020(2)(a)(i). See *also*, 34 CFR § 300.304(b)(1).

11. The group of qualified professionals 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. WAC 392-172A-03020(2)(b) and (c). See *also*, 34 CFR § 300.304(b)(2) and 34 CFR § 300.305(a).

12. The IDEA requires that students be assessed “in all areas related to the suspected disability” and that the evaluation 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.” WAC 392-172A-03020(3)(e) and (g). See *also*, 34 CFR § 300.304(c)(4), (6). Assessments must be administered by “trained and knowledgeable personnel” and “in accordance with any instructions provided by the producer of the assessments.” WAC 392-172A-03020(3)(a)(v), (3)(a)(vi). See *also*, 34 CFR § 300.304(c)(1)(iv), (c)(1)(v).

13. The IDEA also requires the District to review existing data on the student as part of an evaluation or reevaluation:

As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must:

- (1) Review existing evaluation data on the student, including:
 - (a) Evaluations and information provided by the parents of the student;
 - (b) Current classroom-based, local, or state assessments, and classroom-based observations; and
 - (c) Observations by teachers and related services providers.
- (2) (a) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:
 - (i) Whether the student is eligible for special education services, and what special education and related services the student needs; or
 - (ii) In case of a reevaluation, whether the student continues to meet eligibility, and whether the educational needs of the student including any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum; and
- (b) The present levels of academic achievement and related developmental needs of the student.

WAC 392-172A-03025(1), (2). See also, 34 CFR § 300.305(a)(1), (a)(2).

14. A school district has thirty-five school days to complete an evaluation after it receives written consent to evaluate from the parent, unless the school district and parent agree to extend the timeline. WAC 392-172A-03015. The district must provide the parents with an evaluation report which includes, 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. WAC 392-172A-03035(a), (d) and (f).

Independent Educational Evaluations (IEE)

15. If parents disagree with an evaluation conducted by the school district, they can request an IEE, an evaluation conducted by a qualified examiner who is not employed by the school district, at district's expense. WAC 392-172A-05005(1), (2). See *also*, 34 C.F.R. § 300.502(b). Parents are entitled to only one IEE at public expense each time the school district conducts an evaluation with which the parents disagree. WAC 392-172A-05005(2). See *also*, 34 CFR § 300.502(b)(5).

16. 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. WAC 392-172A-05005(2)(c). See *also*, 34 C.F.R. § 300.502(b)(2)(i). In this case, the Parents requested an IEE on June 17, 2025, and the District filed its initial hearing request on June 26, 2025, contesting the Parents request. The District's hearing request was timely.

17. If the district initiates a due process hearing and the tribunal's 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. WAC 392-172A-05005(3). See *also*, 34 C.F.R. § 300.502(b)(3).

18. The underlying question in an IEE hearing is whether the reevaluation was appropriate, not whether the substantive eligibility decision by the district was correct. *A.S. v. Shoreline Sch. Dist.*, 2025 U.S. Dist. LEXIS 121802 *6 (W.D. Wash. 2025) (citing *E.P. by & through J.P. v. Howard Cty. Pub. Sch. Sys.*, 2017 U.S. Dist. LEXIS 133780, 2017 WL 3608180, at *18 (D. Md. Aug. 21, 2017) ("The IEP team's eligibility determination is not relevant to the question of whether the HCPSS Evaluation was appropriate.")).

District's 2025 Reevaluation

19. Prior to reevaluating the Student, the District obtained the Parent's written consent to conduct a reevaluation, focusing on review of existing data, written language, cognitive, reading, and social/behavior. The District sent the notice in the form of a reevaluation notification/consent form. On May 5, 2025, Parents added the areas of communication, medical-physical and study/organizational skills to the consent form, and signed the consent. There is no procedural defect in the notice, and it did not undermine the appropriateness of the District's reevaluation. WAC 392-172A-05105(2).

20. The June 2025 final reevaluation evaluated the Student in all areas to which the Parents consented: a review of the Student's existing data as well as written language, cognitive, communication, medical-physical, reading, social/behavior, and

study/organizational skills. There is no evidence that the Parents or District raised concerns that the Student needed to be evaluated in any other areas. WAC 392-172A-03020(3)(e).

21. The District gathered relevant functional, developmental, and academic information about the student, including information provided by the Parents. WC 392-172A-03020(2). The District also conducted updated standardized assessments and ratings scales, specifically the KTEA-3, WISC-V, SSIS-SEL, Arizona-4 and OWLS-II. WAC 392-172A-03020(2)(a). All assessments were administered in English and there were no concerns that this was not the native language of the Student, the Parents, or the test administrator. WAC 392-172A-03020(3)(a)(ii). Nor were there concerns that assessments administered as part of the evaluation discriminated against students of the Student's racial and cultural background. WAC 392-172A-03020(3)(a)(i).

22. The District prepared a reevaluation report that satisfied the requirements of WAC 392-172A-03035. The report contained information for each area that was evaluated. It stated that although the Student had a disability, she did not meet eligibility criteria for special education services. The report discussed the assessments and data used to support this conclusion. WAC 392-172A-05105(2).

23. Finally, the reevaluation was completed in a timely manner. The reevaluation was completed on June 18, 2025, thirty-one school days after the Parents' May 5, 2025 consent, thus complying with the provisions of WAC 392-172A-03015.

24. Nevertheless, the Parents argue that the reevaluation was inappropriate and denied the Student FAPE. PB²² at 26-41. The Parents argue that the District failed to follow the specific requirements of WAC 392-172A-03020 when assessing the Student's written language, reading, and study/organizational deficits related to her ADHD. PB at 26-41. Citing WAC 392-172A-03025, the Parents further argue that the District failed to appropriately review existing evaluation data on the Student before making assessment decisions. PB at 22-24.

25. The District argues that the reevaluation was appropriate and met all the requirements of WAC 392-172A-03020, asserting that it was sufficiently comprehensive, employed a variety of assessment tools, was completed by qualified personnel, and that the results were valid and reliable. DB at 16-20. The District does not address the requirements of WAC 392-172A-03025.

²² "PB" refers to Parent Brief; "DB" refers to District Brief.

Written Language

26. Regarding the Student's written language skills, the Parents argue that the District improperly relied on a single measure, the KTEA-3 written expression subtest, to determine there were no concerns with the Student's writing abilities, thus violating WAC 392-172A-03020(2). PB at 26-27. The Parents further argue that the District failed to properly administer and score the KTEA-3 written expression subtest, asserting that two other experienced testers found errors in the District scoring. PB at 37. The District asserts that Ms. Hutson was qualified to administer, and properly administered, the KTEA-3 in written expression. DB at 20.

27. Ms. Hutson is a qualified and experienced school psychologist who has experience administering the assessments used in the reevaluation. Therefore, Ms. Hutson had the necessary training and experience to administer the assessments, including the KTEA-3. WAC 392-172A-03020(3). The District also has discretion to select the assessments they use in an evaluation, rather than the Parent. See *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). However, this discretion does not negate the responsibility to properly implement assessments "in accordance with any instructions provided by the producer of the assessments." WAC 392-172A-03020(3)(a)(v).

28. The Parents cite *Glendale Unified Sch. Dist.*, 51 IDELR 146, *11-14 (SEA CA 2008) and *City of Chicago Sch. Dist.*, 113 LRP 12570, *6-7, 16-17, 22, 23 (SEA IL 2013) to support their proposition that the KTEA-3 testing in the present case is invalid. PB at 37. *Glendale* involved a situation where the District conceded that its testing on both the Woodcock Johnson 3rd Edition (WJ-III) academic test and the Conners' Teacher and Parent Rating Scale (Conners') contained scoring errors and was unable to explain why, in spite of the faulty test administration, the tests were valid. *Glendale*, 51 IDELR 146 at *11-14. In *City of Chicago*, the record reflected significant expert witness testimony that the District failed to follow scoring protocols in administering the WISC IV, miscalculated a raw score on a mathematics subtest, and failed to follow the rules in administering the Vineland Adaptive Behavior Scales. *City of Chicago*, 113 LRP 12570, at *6-7, 16-17. Neither case is similar to the situation presented here.

29. The record reflects that four independent testers - Ms. Hutson, Ms. Pepin, Dr. Ferdico and her psychometrist, Ms. Paschal, all scored the Student within the range of "average" on the KTEA-3 written expression subtest. Dr. Ferdico and Ms. Pepin both calculated lower average scores (94 and 91) than the average score (100) calculated by Ms. Hutson. Dr. Ferdico opined that she was not sure how Ms. Hutson reached a score of 100, as a difference of 6 points between independent scorers was not

considered “normal.” Ms. Pepin opined that the Student’s multiple errors and responses on the subtest were more similar to fourth grade responses than seventh grade.

30. Nevertheless, there was little evidence at hearing explaining how this test is scored, what protocols are used, or why different scores within the range of “average” would be anomalous. While Dr. Ferdico pointed to eleven subjective items on the Student’s the KTEA-3 written expression subtest where she and Ms. Pepin disagreed with Ms. Hutson’s scoring, there was no evidence about how the KTEA-3 manual requires these items to be scored. Because there is insufficient evidence about how this subtest is scored, and because all testers scored the Student within the range of “average,” I conclude that the District’s scoring on the subtest was appropriate.

31. The Parents additionally argue that the District failed to review existing data, classroom-based information, or teacher or related service provider observations, before assessment decisions were made, as required by WAC 392-172A-03025(1). PB at 22-24. The Parents argue that HRS could have provided the District with information regarding the Student’s current struggles with written language and spelling, and that had the District reviewed this information it would have encountered “substantial evidence” of the Student’s continued difficulties with written language and spelling. PB at 23. The Parents asserts that the District’s failure to obtain this information, or to administer any spelling assessment despite the Student’s history of spelling-related disability and ongoing difficulties, illustrates that the reevaluation was inappropriate. PB at 26-27.

32. While not citing WAC 392-172A-03025, the District argues that it properly reviewed existing data, including the Student’s initial special education evaluation, June 2022 triennial reevaluation, September 2024 IEP, STAR reading assessments, SBA ELA and STAR ELA assessments, and obtained teacher, Parent and Student input. DB at 17-18. The District argues that while it did not administer a spelling assessment, the IDEA does not require it to conduct any standardized testing as a part of its reevaluation. DB at 21. Rather, the District argues that when there is no evidence that the child’s needs have substantially changed, it can simply review records, classroom observations, curriculum-based measures and other non-standardized assessments. DB at 22 (citing *Robert B. v. West Chester Area Sch. Dist.*, 2005 WL 2396968 at *5-6 (E.D. Penn. 2005); *KW v. Peninsula Sch. Dist.*, 2025 U.S. Dist. LEXIS 107295 2025 WL 1592450 (W.D. Wash. June 5, 2025)).

33. In this case, I agree with the Parents that the reevaluation was inappropriate because the District failed to appropriately review existing evaluation data about the student, including “[c]urrent classroom-based, local, or state assessments and

classroom-based observations” and “[o]bservations by teachers and related services providers.” WAC 392-172A-03025(1)(b) and (1)(c).

34. In assessing the Student’s written language skills, the District implemented the KTEA-3 written expression subtest, noted that the Student “recently exceeded standard on the ELA SBA, and referenced her September 2024 IEP, which indicated that she had a “solid understanding of paragraph and essay structure at that time, and was working on revisions.” However, the reevaluation also noted that the Student previously scored low (74/4th percentile percentile) on the KTEA-3 spelling subtest in June 2019. The reevaluation also included comments from the September 2024 IEP, but failed to mention that the Student had not met her IEP spelling goal as of September 2024. The District also did not consider any input, observations or assessments from the Student’s current writing teacher. The District did not consider the Student’s IEP progress reports or grades in writing. The District did not extend the reevaluation deadline to obtain any of this information.

35. Input from the Student’s current writing teacher, Ms. LeMasson, would have indicated that the Student still struggled with spelling, and that this impacted her written language skills. Ms. LeMasson expressed at hearing that the Student was enrolled in a slower paced “structured writing” class with reduced assignments. She observed that the Student continued to require “a lot of help” with spelling, and required additional assistance with writing mechanics. The Student did not complete assignments independently, and fell in the middle of the slower paced class, even with additional assistance. After the reevaluation, the Student received a low score (70/2nd percentile) on the spelling subtest in August 2025, thus reflecting that she continued to struggle in this area.

36. An evaluation as a whole must be “sufficiently comprehensive to identify all of the student’s special education and related service needs.” WAC 392-172A-03020(3)(g). An appropriate review of existing evaluation data for the Student from her current writing teacher would have revealed her ongoing and persistent difficulties in the area of written expression and spelling. Based on this record, I conclude that the District failed to appropriately assess the Student’s written language skills because it did not review or consider any input or observations from the Student’s current writing teacher regarding the Student’s current progress in the area of written expression and spelling. The District has not met its burden on this issue.

Reading

37. Regarding the Student’s reading skills, the Parents again argue that the District failed to review existing data, classroom-based information, or teacher or related

service provider observations, before assessment decisions were made, as required by WAC 392-172A-03025(1). PB at 22-24. The Parents argue that the District's single standardized measure of the Student's basic reading skills – the KTEA-3 letter & word recognition subtest – indicated that the Student continued to have a deficit in basic reading skills. PB at 27-28.. The Parents argue that based on the these subtest results, the District was statutorily obligated to conduct a more in-depth analysis of the Student's basic reading skills, including past areas of assessment such as pseudoword decoding. PB at 31, 35. The Parents argue that the District instead inappropriately relied on general measures from the Student's SBA ELA and STAR ELA tests, "sanitized" input from the Student's reading teacher, and a false DIBELS wpm reading fluency benchmark, to conclude that the Student no longer qualified for SDI in basic reading. PB at 7, 9, 28, 31, 36

38. The District argues that its reevaluation was adequate, as it used a variety of assessment tools and strategies to assess the Student's reading skills, including administering the WISC and KTEA-3, and reviewed the Student's SBA ELA and STAR ELA results, and teacher input. DB at 17-18, 23-24. The District further asserts that the Student scored in the average range in silent reading fluency and reading comprehension on the May 2025 KTEA-3 and exceeded expectations on the February 2025 STAR ELA, indicating that she no longer required SDI. DB at 17-18, 23-24. Citing *Avila v. Spokane Sch. Dist.*, 686 F. App'x 384, 385 (9th Cir. March 30, 2017), the District further argues that where the district conducts a broad academic evaluation, rather than specific assessments, minor flaws in an evaluation do not warrant an IEE at public expense. DB at 23.

39. As outlined above, District's assessments included KTEA-3 subtests in letter & word recognition, reading comprehension, and silent fluency reading. There is no assertion by the Parents that the District improperly implemented these subtests, just that they should have administered additional tests in basic reading. While the Parents' expert witness, Dr. Ferdico, asserted that she would personally have used the WIAT-IV and the FAR to assess the Student's reading, the District has discretion to select the assessments they use in an evaluation. *E.M.*, 652 F.3d at 1003 (*citations omitted*). There is no indication that the District improperly assessed the Student's reading skills by administering the subtests they chose, rather than additionally testing the Student in pseudoword decoding or other basic reading assessments. WAC 392-172A-03020(2).

40. The Parents further assert that the District improperly converted the Student's scores on the STAR CBM from sixth grade to seventh grade reading fluency standards using the DIBELS tool. However, the Student's KTEA-3 results indicated that she met

average scores in silent reading fluency at grade level. Therefore, the June 2025 final reevaluation did not rely solely on the DIBELS calculation, and this error was harmless.

41. The District also appropriately considered the Student's scores on the SBA ELA and STAR ELA assessments, both of which indicated that the Student exceeded seventh grade standards in reading comprehension. While Ms. Key expressed that the Student's STAR ELA results were "unusually high," and likely based on the Student guessing at questions, HRS itself relies on this test to measure a Student's progress in reading comprehension. Therefore, the District appropriately reviewed these local and state assessments in evaluating the Student's reading skills. WAC 392-172A-03025(1)(b).

42. Finally, while the District reviewed current teacher input and observations from Ms. Boe, the Student's Reading Level 7 teacher. The District also included input from Ms. Boe in the reevaluation regarding the Student's difficulties with phonological awareness, ability to encode and decode when reading aloud, and her below average basic reading skills compared to peers. Therefore, the District appropriately reviewed classroom-based observations in evaluating the Student's reading skills. WAC 392-172A-03025(1)(c).

43. As outlined above, The underlying question in an IEE hearing is whether the reevaluation was appropriate, not whether the substantive eligibility decision by the district was correct. A.S., 2025 U.S. Dist. LEXIS 121802 *6 (*citations omitted*). While the Parents disagree with the District's decision not to additionally test the Student's basic reading skills, the reevaluation did not fail to include both assessments and teacher observations of the Student's skills in reading comprehension, reading fluency, and basic reading.

44. In sum, because the District implemented proper assessment tools in the area of reading, reviewed the Student's local and state assessments in the area of reading, reviewed information provided by the Parents, and reviewed observations by the Student's current reading teacher, its evaluation of the Student's reading skills was sufficiently comprehensive and appropriate. WAC 392-172A-03020(2), (3); WAC 392-172A-03025(1).

Study/Organizational Skills

45. The Parents also argue that the District failed to review existing evaluation data regarding the student's executive functioning and study/organizational skills, such as current teacher and classroom-based observations, as required by WAC 392-172A-03025. PB at 23-24. The Parents assert that had the District reviewed this data, it would have determined that the Student still struggled with these skills. PB at 24.

46. The Parents further argue that the District failed to collect any current data in this area and only relied on a single measure, information contained in the Student's

2024 IEP, to determine the Student had no deficits in study/organizational skills. PB at 28-29. The Parents acknowledge that both Ms. Boe and the Student completed the SSIS-SEL, but argue that this only assesses social/emotional skills and that the District's reevaluation only relied on this data to conclude that the Student did not have deficits in social/emotional skills. PB at 29. The Parents argue that the District should have implemented either the BASC-III or the BRIEF-II, both of which measure ADHD symptoms and study skills and organizational functioning. PB at 29.

47. The District concedes that it expanded the scope of the reevaluation to include study/organizational skills at the request of the Parents, but asserts that it properly evaluated the Student in this area. DB at 22, 28. The District argues that it reviewed the Student's records and considered input from the Parents and Ms. Boe. DB at 22. The District asserts out that the Student's September 2024 IEP reflected that the Student had good executive function skills, and that Ms. Boe described the Student as "hard-working", organized and motivated." DB at 22. The District argues that because there was no indication of any lack of concerns in this area, it was not required to implement a standardized assessment of the Student. DB at 22-23.

48. However, the District's June 2025 reevaluation did not include any observations gathered from Ms. Boe, or any of the Student's current teachers regarding the Student's performance in study/organizational skills. The reevaluation also did not include any observations gathered from the Parents. An evaluation report must include a "discussion of the assessments and review of data that supports the conclusion regarding eligibility . . ." WAC 392-172A-03035(1)(b).

49. The reevaluation only contained two comments from the Student's September 2024 IEP that the Student had "pretty good executive functions but may need occasional reminders," and that she was "a strong self-advocate." These comments were nearly a year old at the time the reevaluation was conducted, thus the reevaluation included no current classroom-based observations or teacher observations of the Student's study/organizational skills. WAC 392-172A-03025(1). Further, Ms. Boe testified at hearing that the Student continued to struggle in the area of study/organizational skills, despite her prior comments regarding the Student's organization. Based on these facts, I conclude that the District failed to appropriately assess the Student's study/organizational skills in the June 2025 reevaluation.

Harmless Error Does not Apply

50. The District argues that even if its reevaluation contained errors, the Parent's critiques are insufficient to undermine its overall adequacy. DB at 23. The District

asserts that harmless error applies and the Parents are not entitled to an IEE at public expense. DB at 23. The District is incorrect.

51. The District first cites *Ford*, 291 F.3d at 1089, arguing that a claim for IEE reimbursement must be rejected when an evaluation is “adequate” despite procedural errors. DB at 15. In *Ford*, the parents challenged the adequacy of the district’s reevaluation because it did not include classroom observation of the Student by someone other than her classroom teacher, as required by 34 C.F.R. § 300.542. *Ford*, 291 F.3d at 1088. The *Ford* court dismissed this argument, finding that while the district did not follow strict statutory procedure, the error was harmless because the district evaluation included the classroom observations of three then-current teachers, corroborated by classroom observations of former teachers who testified at hearing. *Id.* at 1088 (*citations omitted*).

52. The District also cites *R. Z. C. v. N. Shore Sch. Dist.*, 755 Fed. Appx. 658, 659-660 (9th Cir. 2018), arguing that mere technical deficiencies in a reevaluation do not entitle the Parents to an IEE. DB at 15, 23. The technical deficiencies addressed *R.Z.C.* focused on the claim that an evaluation did not include a specific statement of whether student was “achiev[ing] adequately for [his] age,” thus failing to mirror language contained in WAC 392-172A-03080(1)(e)(i). *R.Z.C.*, 755 Fed. Appx., at 659-660. The court in *R.Z.C.* concluded that the technical error was harmless as the district did not omit any required information, including:

detailed results of [student’s] cognitive, attention, social, emotional, medical and physical evaluations, and included general education teacher reports, parent input, past and current grades, progress measurements, teacher observations and findings, a psychologist report, specific assessment results and an “age appropriate transition assessment.”

Id., at 659-660.

53. That is not the situation here. In this case, the District’s June 2025 reevaluation did not include current classroom-based observations, or observations by teachers and related service providers in the areas of written language and study/organizational skills. While the reevaluation included comments from the September 2024 IEP regarding these skills, the comments were nearly a year old at the time the reevaluation was conducted and were thus outdated. The District’s June 2025 reevaluation also failed to mention that the Student had not met her spelling goal in September 2024, and the District failed to assess the Student’s spelling despite this data. The District included absolutely no updated information regarding the Student’s study/organizational skills in

the reevaluation. Further, teacher testimony at hearing indicated that the Student still continued to struggle in both writing and study/organizational skills. Based on these facts, the District's errors were not harmless.

54. In sum, I conclude that the District failed to appropriately evaluate the Student's written language and study/organizational skills as required by WAC 392-172A-03020 and WAC 392-172A-03025. The District's reevaluation was not "sufficiently comprehensive to identify all of the student's special education and related service needs." WAC 392-172A-03020(3)(e) and (g). Therefore, the District has failed to meet its burden to prove that its reevaluation of the Student was appropriate, and the Parents are entitled to obtain an IEE at public expense. WAC 392-172A-05005.

Issues b.i and b.ii – Whether the District Denied the Student a FAPE by Determining that the Student was not Eligible for Special Education Services Based on an Inappropriate Reevaluation

55. The Parents next argue that because the District failed to conduct an appropriate reevaluation, it could not lawfully determine that the Student was no longer eligible for special education services and that it denied her FAPE by terminating her eligibility based on the reevaluation. PB at 41-43. The District asserts that it conducted a comprehensive reevaluation and appropriately determined that the Student did not meet special education eligibility criteria. DB at 23-25. For the reasons outlined below, the District has not met its burden on these issues.

56. A student who is determined eligible for special education services shall remain eligible until . . . [a] group of qualified professionals and the parent of the student, based on a reevaluation, determines the student is no longer eligible for special education services. WAC 392-172A-02000(2)(a). If a school district properly determines that the Student is no longer eligible to receive special education services, the district may "exit" a student from special education without parental consent. *Garvey Sch. Dist.*, 120 LRP 8402 (SEA CA 02/20/20); *Ventura Unified Sch. Dist.*, 122 LRP 14968 (SEA CA 04/04/22).

57. A District may violate the IDEA when it exits a student from special education without conducting an appropriate assessment which includes how the student's conditions manifest in the school setting. *W.T. v. Douglas County School District*, 123 LRP 24665 (D. Nev. August 11, 2023). Further, when determining whether a student needs special education services, districts must consider the effect of the special education services a student is already receiving. *L.J. v. Pittsburg Unified Sch. Dist.*, 850 F.3d 996, 1004-1005 (9th Cir. 2017) (the fact that a 12-year-old with autism, depression, anxiety, and social and behavioral deficits was performing well

academically in an inclusion classroom with emotional and behavioral services did not disqualify him from continued IDEA eligibility).

58. In this case, the District's reevaluation of the Student was inappropriate because it failed to gather relevant information about the Student as required by WAC 392-172A-03030(2)(a), failed to review existing data on the Student as required by WAC 392-17A-03025(1), and was not sufficiently comprehensive to identify all of the student's special education and related service needs, as required by WAC 392-172A-03020(3)(a)(g). The District's reevaluation did not include current teacher or classroom observations in the areas of written language and study/organizational skills. Without this information, the District could not fully address the effect of the special education services the Student was already receiving, or how the Student's conditions manifested in the school setting. Further, the errors in the reevaluation were not harmless. Therefore, the District's decision to exit the Student from special education services based on the reevaluation denied the Student FAPE. The District has failed to meet its burden on this issue.

Issues b.iii and b.v - Whether the District Predetermined that the Student would not be placed at HRS Prior to Reevaluation, or that the Student Did Not Qualify for SDI

59. The Parents argue that prior to initiating a reevaluation, the District predetermined that the Student would not be placed at HRS. PB at 44. The Parents also argue that the District's reevaluation predetermined that the Student did not qualify for SDI in advance of the reevaluation meeting. PB at 44-45. For the reasons outlined below, I find that the District meets its burden on the first issue, and that the second does not need to be addressed.

Predetermination

60. Placement determinations for students eligible for special education should be made by a group of individuals, including the parents, who are "knowledgeable about the student, evaluation data, and placement options." WAC 392-172A-02060. Districts must ensure that parents of eligible students are members of any group making decisions about the student's placement. WAC 392-172A-05001; 34 CFR § 300.327; 34 CFR § 300.501(c).

61. A district violates a parent's right to meaningfully participate in the IEP process if it predetermines a student's placement, such as when it "independently develops an IEP, without meaningful parental participation, and then simply presents the IEP to the parent for ratification." *Ms. S. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9th Cir. 2003). Predetermination may also occur when a District makes a placement

determination prior to an IEP meeting and is unwilling to consider other alternatives. *H.B. v. Las Virgenes Unified Sch. Dist.*, 239 Fed Appx. 342, 48 IDELR 31 (9th Cir. 2007).

62. “[P]redetermination occurs when an educational agency has made its determination prior to the IEP meeting, including when it presents one placement option at the meeting and is unwilling to consider other alternatives.” *H.B. v. Las Virgenes Unified Sch. Dist.*, 239 F. App’x 342, 344 (9th Cir. 2007). A school district’s belief that its proposed placement in public school is appropriate does not establish predetermination so long as it is willing to consider other placements. *Id.* at 345. Predetermination of a student’s placement is a procedural violation that can deprive the student of FAPE. According to the Ninth Circuit, a school district violates IDEA procedures “if it independently develops an IEP, without meaningful parental participation, and then simply presents the IEP to the parent for ratification.” *Ms. S.*, 337 F.3d at 1131.

Placement at HRS

63. In this case, the Parents argue that the District predetermined that the Student would not be placed at HRS for the following school year prior to initiating a reevaluation. The Parents point to communications between the District and HRS in March 2025, that the Student would be “returning to the District.” Citing *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1124 (2016), the Parents argue that this procedural error caused an alternative placement to not be considered and thus denied the Student FAPE. PB at 43.

64. The District concedes that a school district may not predetermine a student’s placement prior to developing an IEP. DB at 25. However, citing *L.C. on behalf of A.S. v. Issaquah Sch. Dist.*, 2019 WL 2023567, at #21 (W.D. Wash., May 8, 2019), the District argues that a district may appropriately prepare a placement offer in advance of an IEP meeting and does not commit “predetermination” when it does not change its determinations to agree with the parents’ preferences. DB at 25. In this case, the record reflects that the District did not predetermine the Student’s placement outside of HRS prior to initiating a reevaluation.

65. The record reflects that on March 18, 2025, a single District employee, Mr. Valtierra, e-mailed HRS that the Student “will be returning to the District for the next school year.” Mr. Valtierra supervised NPA contracts, but had no authority or responsibility for making placement decisions for the District for the 2025-2026. Mr. Valtierra also was not available to testify at hearing regarding this communication. Further, after this initial e-mail, District e-mails over the next few days emphasized that

no placement decisions had yet been made for the Student for the 2025-2026 school year, and that a reevaluation was required before any such decision.

66. On March 18, 2025, HRS e-mailed Ms. Young at the district asking why the Student would no longer be placed at HRS. Ms. Young forwarded this e-mail to Mr. Bittle on March 24, 2025. Mr. Bittle, who was new to his position in supervising special education students in the central region, forwarded the question to District legal counsel. That same day, District e-mails between District staff and District legal counsel indicated that no placement decisions had yet been made for the Student, that she was due for an evaluation, and that after the evaluation the IEP team would meet to discuss placement.

67. On March 25, 2025, Ms. Young informed HRS that the District legal department was not aware of any changes to the Student's services, but that she was due for an evaluation and that a psychologist would be assigned to complete one. Unfortunately, in response to HRS responding with a copy of Mr. Valtierra's original e-mail, Ms. Young responded "I think that is the plan for next year." Nevertheless, Ms. Young also stated that any change in placement would require a reevaluation and IEP meeting. Ms. Young also was not in charge of placement decisions or involved in the Student's evaluations.

68. Based on this evidence, I conclude that while the e-mails to HRS were confusing, internal District e-mails reflected that no placement decision had been made for the Student for the 2024-2025 school year prior to her reevaluation. Further, all District employees involved in the e-mail exchanges attempted to clarify Mr. Valtierra's March 18, 2025 communication, and informed HRS that a reevaluation needed to be completed before the District made any decisions regarding placement for the 2025-2026 school year. Therefore, the record reflects that the District did not predetermine that the Student would not be placed at HRS for the 2024-2025 school year. The District has met its burden on this issue.

Eligibility for SDI

69. The Parents also argue that prior to completing the reevaluation, Ms. Hutson concluded that the Student did not qualify for SDI. PB at 44-45. The Parents assert that during the June 2025 reevaluation meeting, Ms. Hutson did not meaningfully address their concerns about the reevaluation, and relied on an inappropriate evaluation, indicating that she had already reached a conclusion that the Student did not qualify for SDI. PB at 44-45. The Parents further assert that Ms. Pepin, a school psychologist, reviewed all of the Student's special education records, including the Ms. Hutson's May 2025 and June 2025 final reevaluation, and concluded that the Student

continued to qualify for SDI, thus indicating that Ms. Hutson's decision was predetermined. PB at 44.

70. As outlined above, I have already determined that the June 2025 final reevaluation was inappropriate and that the Student is entitled to a new evaluation. I have also determined that the District did not predetermine the Student's educational placement before conducting a reevaluation. Therefore, I do not need to address whether the District predetermined that the Student did not qualify for SDI based on the reevaluation.

Issue b.iv - Whether the District violated the IDEA and denied the Student a FAPE by denying the Parents the opportunity for meaningful participation in Student's reevaluation and reevaluation meeting

71. The Parents raised this issue prior to hearing, but did not directly address it in closing argument. Because I have determined that the June 2025 final reevaluation was inappropriate, and a new reevaluation must be conducted, this issue does not need to be addressed.

Issue b.vi - Whether the District violated the IDEA and denied the Student a FAPE by denying the Parents the opportunity for meaningful participation in developing the Student's IEP that would have been developed subsequent to the District's reevaluation of the Student

72. The Parents raised this issue prior to hearing, but did not directly address it in closing argument. The Parents briefing mention that they "lost the opportunity to participate in the IEP-development process," but do not further expand this argument in briefing. PB at 42. Because I have determined that the June 2025 final reevaluation was inappropriate, and a new reevaluation must be conducted, this issue does not need to be addressed.

Summary of Violations

73. In sum, the District violated the IDEA and denied the Student a FAPE by failing to appropriately reevaluate the Student in June 2025, and improperly exiting the Student from special education services based on the inappropriate reevaluation.

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

Requests for Relief

75. When a district violates the IDEA, a tribunal may “grant such relief as the court determines is appropriate.” 20 U.S.C. § 1415(i)(2)(C)(iii). Relief is “appropriate” if it furthers the purposes of the IDEA and helps to ensure that a student receives the education to which he was statutorily entitled at the time of the violation. *Ferren C. v. Sch. Dist. of Philadelphia*, 612 F.3d 712, 719 (3d Cir. 2010).

Reevaluation

76. Because the District’s June 2025 final reevaluation of the Student was inappropriate, it must initiate a reevaluation within thirty (30) days of this order. The reevaluation must include all areas of suspected disability, including but not limited to Reading, Writing, Social/Emotional and Study/Organizational Skills.

Continued Eligibility for Special Education Services Pending Reevaluation

77. Because the District improperly exited the Student from special education services based on the inappropriate June 2025 final reevaluation, the Student shall remain eligible for special education services in the areas of reading and written language until the District completes an appropriate reevaluation for the Student. The District cannot make any determination about the Student’s continued eligibility for any special education services until after the reevaluation process is complete.

Payment of IEE

78. As found and concluded above, the District’s June 2025 reevaluation was inappropriate. Therefore, the Parents are entitled to an IEE at public expense. WAC 392-172A-05005.

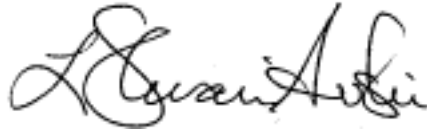
79. The Parents have requested reimbursement in the amount of \$12,900.00 for the expenses of Dr. Ferdico’s IEE. The Parents have provided sufficient evidence of these expenses, and thus the District must reimburse the Parents for the cost of the IEE conducted by Dr. Ferdico.

ORDER

1. The District violated the Individuals with Disabilities Education Act (IDEA) and denied the Student a Free Appropriate Public Education (FAPE) by failing to appropriately reevaluate the Student in June 2025, and improperly exiting the Student from special education services based on the inappropriate reevaluation.

2. The Parents are entitled to the remedies outlined above.
3. The Parents' remaining requested remedies are DENIED.

SERVED on the date of mailing.



L'Nayim Shuman-Austin
Administrative Law Judge
Office of Administrative Hearings

Right To Bring A Civil Action Under The IDEA

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

DECLARATION OF SERVICE

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

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Dated July 10, 2026, at Spokane Valley, Washington.

Lan Le

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