

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Seattle School District

Docket No. 07-2025-OSPI-02634

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

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2025-SE-0117

A due process hearing was held before Administrative Law Judge (ALJ) Niles McDonald on May 26-29, 2026, via videoconference. The Parents of the Student whose education is at issue¹ appeared and were represented by Alexander Hagel, attorney at law. The Seattle School District (District) was represented by Sam Chalfant, attorney at law. Also present for the District was Mike Bylsma, Director of Special Education.

STATEMENT OF THE CASE

Procedural History

The Parents filed a due process hearing request (Complaint) on July 23, 2025, which was assigned cause number 2025-SE-0117. The matter was assigned to ALJ Pamela Meotti on July 23, 2025. A prehearing conference was held on August 28, 2025, and the due process hearing was set for February 2-5, 2026. On January 15, 2026, ALJ Meotti issued an order continuing the due process hearing and setting February 2, 2026, as a prehearing conference. On February 10, 2026, ALJ Meotti issued an Order of Continuance, continuing the prehearing conference from February 2, 2026, to February 10, 2026. The second prehearing conference was held as scheduled on February 10, 2026, and ALJ Meotti issued an Order Setting Due Process Hearing on February 11, 2026. The February 11, 2026, order scheduled the due process hearing April 10, and April 13-15, 2026. On March 3, 2026, the District requested a continuance, to which the Parents did not object. On March 4, 2026, ALJ Meotti issued an Order Continuing Due Process Hearing, which set the due process hearing for May 26-29, 2026. On March 6, 2026, this matter was reassigned to ALJ McDonald.

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

The due process hearing was held as scheduled from May 26-29, 2026. During the due process hearing, the parties jointly requested the issues for hearing be modified, with the language shown below.

Due Date for Written Decision

The due date for a written decision in this case is thirty (30) calendar days after the close of the record. The record closed when the parties timely filed post-hearing briefs on July 27, 2026, and the due date for the written decision is August 26, 2026.

EVIDENCE RELIED UPON

Exhibits Admitted:

District's Exhibits: D1-D20, D22, and D24

Parents' Exhibits: P1-P16 and P18-25

Witnesses Heard:

Ms. Parent, the Student's Mother

Dina Vesmanova, Special Education Teacher

Jennifer Paris, Special Education Teacher

Stacy Leggitt, District Occupational Therapist (OT)²

Rachel Connelly, District Speech Language Pathologist (SLP)³

Emma Mochnick, District Psychologist

Michael Bylsma, Director of Special Education

Chrissi Omalza, Teacher, Academy for Precision Learning (APL)

Anne Baker, Teacher, APL

Garth Sutherland, Teacher, APL

Dr. Adrianne da Silva, Student's Psychologist

² OT may refer to both occupational therapy as a therapy, and occupational therapist, as a profession.

³ SLP may refer to both speech language pathology as a therapy, and speech language pathologist as a profession.

ISSUES

The final issues for the due process hearing, as jointly requested by the parties during the due process hearing, are:

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

1. Failing to offer an appropriate educational placement during the 2023-2024 and 2024-2025 school years that was reasonably calculated to enable meaningful educational progress, including refusal to place the Student at APL, despite evidence of his progress there and his inability to access education in the public-school environment;
2. Discounting or ignoring evidence provided by the Student's treating psychologist, private school teachers, and Parents documenting the Student's significant academic and social-emotional progress at APL, and his inability to access learning in larger, less structured public-school settings;
3. Failing to timely conduct the Student's triennial reevaluation, which was due in January 2025, but delayed despite his known ongoing eligibility and significant needs, thereby impeding the development of an appropriate individualized education program (IEP) and placement determination; and
4. Whether the District's proposed IEP of May 1, 2025, and subsequent September 4, 2025, amendment, failed to provide appropriate specially designed instruction (SDI) and services in the appropriate least restrictive environment (LRE), tailored to the Student's documented needs in written language, math problem-solving, and social/behavioral functioning, thereby failing to offer the Student a program reasonably calculated to enable him to make meaningful educational progress;

b. And, whether the Parents are entitled to their requested remedies:

1. Declaratory relief that the District violated the IDEA;
2. Reimbursement to the Parents for out-of-pocket tuition expenses incurred for the Student's enrollment at APL for the 2024-2025 and into the 2025-2026 school year, excluding the period from September 4, 2024 through March 3, 2025;

3. Prospective IEP placement of the Student at APL at District expense;
4. Compensatory education for 2023-2024 of 100–150 hours of special education services to fill any academic gaps;
5. Compensatory education in the conservative amount of 5–10 hours for speech-language services focusing on social communication, narrative language, and inferencing, excluding the period from September 4, 2024, through March 3, 2025;
6. Or other equitable remedies, as appropriate.

FINDINGS OF FACT

Background

1. At the time of the hearing, the Student was fifteen years old and was in the ninth grade. Tr. p.324 (Ms. Parent).⁴ During the 2023-2024 and 2024-2025 school years, the Student was in the seventh and eighth grade, respectively. D3 p.3 and D5 p.3. Ms. Parent enrolled the Student at APL in the fall of 2024. Tr. p.353 (Ms. Parent).
2. APL is a private school focusing on students with autism and serving other neurodiverse students. Tr. p.435 (Omalaza). At APL, the Student's classes typically had four or five students with multiple staff member supporting them. Tr. p. 483 (Baker).
3. As of the hearing, the Student has been diagnosed with autism, attention deficit hyperactive disorder (ADHD), and anxiety. The Student was diagnosed with autism long before entering the District. Tr. p.326 (Ms. Parent). It is not apparent when the District became aware of the Student's ADHD, but it was known since at least the 2022 triennial reevaluation. D1 p. 6-7. The District only became aware of the Student's diagnosis of anxiety on June 20, 2025. P20, Tr. p. 264 (Mochnick). The Student has had an IEP since grade one. Tr. p.328 (Ms. Parent). The Student struggled socially and has not, historically, had many friends. Tr. p.328-330. (Ms. Parent).
4. At the end of second grade, the Student was transferred from Hazel Wolf Elementary to View Ridge, for unclear reasons. Tr. p.330-331 (Ms. Parent). The Student

⁴ The hearing transcript is cited as "Tr." with references to the page of the cited testimony. For example, a citation to "Tr. p.80" is to the testimony at page 80 of the transcript. Exhibits are cited by party ("P" for Parents, "D" for District), exhibit number, and page number. For example, a citation to "D1 p.5" is to the District's Exhibit 1 at page 5.

attended View Ridge from third to fifth grade, then transferred to Eckstein Middle School for sixth grade. Tr. p.331 (Ms. Parent).

5. Throughout the Student's education, Ms. Parent was concerned the Student was not learning. Tr. p.331 (Ms. Parent). While the Student was attending View Ridge, Ms. Parent observed a number of classes and was concerned the Student's special education classroom hosted too broad of a range of students, from neurotypical-presenting children to a child who spent her time beating her head against the floor. Tr. p.331-332 (Ms. Parent). Ms. Parent raised concerns at View Ridge that the Student's math class was not designed to give the Student meaningful attention and support. Tr. p.332 (Ms. Parent).

6. Upon entering the sixth grade, the Student began attending school at Eckstein Middle School. Tr. p.331 (Ms. Parent). The Student also entered private one-on-one math tutoring in October 2022. Tr. p.336 (Ms. Parent).

7. During the 2022-2023 school year, the Student participated in prevocational skills groups where he took part in a student-run coffee shop. Tr. p.215 (Connelly).

8. Ms. Parent routinely expressed her concerns regarding the Student's behavior. Tr. p.336-337 (Ms. Parent). By 2022, Ms. Parent considered a good day for the Student to be one where he did not enter an altercation with, or hit, another student. Tr. p.337 (Ms. Parent). To counter this behavior, Ms. Parent began investigating Applied Behavioral Analysis (ABA) therapy. Tr. p.339 (Ms. Parent). The Student does not appear to have a significant disciplinary history.

Student's Triennial Reevaluation, January, 2022

9. The Student underwent a triennial reevaluation in January, 2022. D1 p.1. The evaluation team met to discuss the reevaluation and make an eligibility determination on January 27, 2022. D1 p.1. The IEP team issued Prior Written Notice (PWN) on January 28, 2022. D1 p.21. The PWN proposed continuing the Student's eligibility for special education services under the category of autism. D1 p.21.

10. The evaluation team proposed the Student be reevaluated in the following areas: general background, math, motor, written language, adaptive/life skills, communication, reading, and social/behavior. D1 p.3.

11. The evaluation team found the Student qualified for special education under the category of Autism. D1 p.6. The evaluation team found that the Student's social/behavior challenges had an adverse impact on his ability to process emotion, cope with frustrations, and navigate and maintain relationships, and that these

stemmed from the Student's autism and ADHD. D1 p.6-7. The team also found the Student required SDI in social/behavior, math, and writing in order to progress with his peers in the general education curriculum. D1 p.6-7. The team found the Student's difficulties in the category of adaptive/life skills could be addressed via his goals in social/behavior, due to the Student's development in this category. D1 p.6-7. They stated the Student would benefit from speech language pathology (SLP)⁵ as a related service. D1 p.6-7.

12. The Summary of Qualifications and Functioning added that the Student faced restrictions to participation due to challenges in sensory processing skills, and recommended OT services as a support. D1 p.7.

13. The evaluation team recommended the Student's IEP team include SDI in math, social/behavior, and written language. D1 p.8. The evaluation team also recommended the Student receive SLP services. D1 p.8.

14. The general background section was completed by Mr. Burkey and considered information from cognitive testing from 2016, which showed the Student performing poorly on old metrics. D1 p.10.

15. The adaptive/life skills section was also completed by Mr. Berkey, and noted psychological testing from 2018, the Student's progress from IEP reports, and reiterated that the Student's adaptive/life could be addressed via his social/behavior goals and did not warrant continued SDI in adaptive/life skills. D1 p.10.

16. The cognitive section of the reevaluation was left blank. D1 p.10.

17. The communication section of the reevaluation was completed by Tess Warner and noted the Student's performance on the Clinical Evaluation of Language Fundamentals – Fifth Edition (CELF-5) which showed the Student scored between the 1st and 9th percentile in the areas of receptive, expressive, and pragmatic skills. This section also notes the Student's primary issue seemed to be stuttering. D1 p11-14. However, teacher and staff input noted that the Student was not slowed by his frustrations or stuttering. D1 p.11-14. This section examined the Student's SLP data and goals, which showed that the Student met his previous year's IEP goals regarding communication, particularly in regard to SLP therapy. D1 p11-14. The team found the Student qualified for speech language pathology as a related services supporting the areas of written language and social/behavior. D1 p11-14.

⁵ Please note, SLP may refer to both speech language pathology, as a therapy, and speech language pathologist, as a profession.

The math section of the reevaluation was completed by Mr. Berkey, and noted the Student's testing on the Woodcock-Johnson Tests of Achievement – Fourth Edition (Woodcock-Johnson), which showed he was in the 1st percentile in all areas of mathematic reasoning. D1 p.14-16. This section included statements from both the Student's general education teacher and Ms. Parent, both of whom noted the Student's difficulties in math. D1 p.14-16. The teacher noted that Student was cooperative and diligent in class. D1 p.14-16. Ms. Parent noted that the Student would become oppositional if he became overly frustrated with math. D1 p.14-16. The review also noted the Student's IEP progress reports, which showed the Student's increasing success and capacity in mathematical processing, such as reading a clock face, remembering multiplication factors, and with calculating change. D1 p.14-16. The evaluation team found the Student continued to qualify for SDI in math. D1 p.14-16.

18. The Motor/Occupational Therapy (OT)⁶ section was completed by Heather Gianfriddo and recommended that, because the Student was advancing, he should OT as a support, rather than SDI, and that it be phased out as appropriate. D1 p.16-17.

19. The reading section of the reevaluation was written by Mr. Berkey and found the Student performed in 77th percentile in letter-word identification and in the 5th percentile in sentence reading fluency on the Woodcock-Johnson. D1 p.27. Though the Student scored low in sentence reading fluency, his reading was accurate but slow. The Student's general education reporter reported the Student's oral fluency in reading was "very strong." D1 p.17. The evaluation team determined the Student did not require SDI in reading, though he may require additional time when reading. D1 p.18.

20. The social/behavior section of the reevaluation was created by Mr. Berkey, who noted the Student struggled with emotional regular. D1 p.18. This section also included input from the Parents, who noted the Student was able to build meaningful relationships, but struggled with focusing and could become distracted. D1 p.18. The evaluation team determined the Student required SDI in social/behavior. D1 p.18.

21. The written language section was completed by Mr. Berkey. Mr. Berkey administered the Woodcock-Johnson. The Student performed in the 32nd percentile in writing samples, 2nd percentile in sentence writing fluency, 12th percentile in written expression, 9th percentile in spelling, and 8th percentiles in broad written language. D1 p.19. These scores all placed his grade equivalent between 2.2 and 4.0. D1 p.19. The

⁶ Please note, OT may refer to both occupational therapy, as a therapy, and occupational therapist, as a job role.

team determined the Student was making “substantial progress” but still required SDI in this area. D1 p.20.

December 2022 IEP

22. On December 13, 2022, the IEP team met to develop an IEP for the Student. D2 p.1. The December 2022 IEP notes that the next IEP meeting must occur before December 13, 2023, and that the next IEP start date was December 13, 2023. D2 p.3. The December 2022 IEP would control the Student’s placement until December, 2023. D2 p.3.

23. The IEP team included several teachers, as well as Ms. Parent. D2 p.3. The IEP team included Ms. Parent’s feedback on the Student’s education, noting that the Student had a great memory and reading skills, had improved greatly in math, and was kind and engaging, but wishing the Student had more friends and was more interested in science and communications, and that he could better apply regulation and de-escalation strategies. D2 p.5.

24. The December 2022 IEP noted the Student could impede learning of himself and others, and that the Student had sensory sensitivity, particularly around noise. D2 p.5.

25. The IEP team considered statements from the Student’s general education teacher, Mr. Johnson, who noted the Student was always willing to work on whatever they were trying, and that though he had some difficulties, the Student progressed quickly when he was engaged and felt good about himself. D2 p.7. Another general education teacher noted that the Student’s largest struggle appeared to revolve around the amount of time he needed, in comparison to how much time he was offered, to complete tasks. D2 p.7.

26. The communication section noted the Student’s participation in a student-run coffee shop, and noted that, though he expressed concerns about burning himself at the start of the year, the Student had moved on to doing all the work the role demanded and developed the ability to communicate with peers and adults. D2 p.7. It also established two goals, one regarding increasing the use of story markers when formulating narrative, from 4 to 9 times on story retell tasks; the other about increasingly asking relevant questions to functional tasks, from 40% of opportunities to ask questions to 100%. D2 p.7-8.

27. The communication section noted the Student’s oral narratives as a skill to improve and set a goal of increasing use of story components in retellings of personal experience, as measured by therapist-create data sheets and observation. D2 p.9. The goal was to tell a stories with five components, up from 3. D2 p.9.

28. The math section of the IEP noted the Student had shown significant growth, learning to add and multiply single-digit numbers with 100% accuracy, and noting the Student's improved attitude around math. D2 p.10.

29. The following three annual goals were set for math:

Annual Goal: MATH

By 12/13/2023, when given a set of at least 5 addition or subtraction problems of double digit numbers with re-grouping [REDACTED] will show work and use teacher taught strategy (such as when more on the floor, go next door for subtraction with regrouping) and will solve accurately with independency improving ability to solve addition and subtraction of double digit numbers with re-grouping independently from 1/5 problems solved accurately to 4/5 problems solved accurately as measured by student work samples, teacher assessments, systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: MATH

By 12/13/2023, when given a set of at least 5 word problems involving the 4 operations and a tools such as models, examples, problem solving anchor charts, 100 chart, multiplication chart [REDACTED] will show work and solve the problems involving the 4 operations improving ability to solve word problems involving the 4 operations from 1/5 opportunities to 4/5 opportunities as measured by student work samples, teacher assessments, systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: MATH

By 12/13/2023, when given a set of at least 5 problems involving fractions with like denominators involving addition, subtraction, or comparison [REDACTED] will use a teacher taught strategy and solve accurately improving ability to solve problems involving fractions from 0/5 opportunities to 4/5 opportunities as measured by student work samples, teacher assessments, systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D2 p.10.

30. The Motor/OT section of the IEP was completed by Ms. Stacy Leggitt, an OT for the District. Tr p.157-158 (Leggitt). This section noted that the Student received OT services and had met the previous IEP's goals of requesting breaks and using calming strategies from the previous year's IEP. D2 p.10.

31. This section included an educational impact statement, which noted that OT services were still recommended. D2 p.10-11. This section stated that the Student was demonstrating an adverse educational impact due to barriers in participation and experiencing difficulty with classroom engagement due to sensory process and regulation. D2 p.10-11.

32. The social/behavior section of the IEP noted that the Student had challenges in the area of social emotional regulation but had made significant improvements. D2 p.11. The section notes that the Student's abilities to advocate for himself had improved significantly, particularly in requesting noise-cancelling headphones if he felt they would be helpful. D2 p.11.

33. Two goals were set for the social/behavior section of the December 2022 IEP:

Annual Goal: SOCIAL/BEHAVIOR

By 12/13/2023, when given an informal social situation and a peer [REDACTED] is familiar with [REDACTED] will make a friendly comment to the peer or ask peer a question improving peer to peer interactions from 1/5 opportunities to 4/5 opportunities as measured by teacher observations, student self assessment, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: SOCIAL/BEHAVIOR

By 12/13/2023, when given an opportunity to ask a question in class about the topic discussed in class [REDACTED] will use classroom norms such as raise his hand, ask a peer, or ask a teacher improving ability to ask clarifying questions regarding a topic discussed in class from 0/5 opportunities to 4/5 opportunities as measured by teacher observations, student self assessments, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D2 p.11-12.

34. The written language section of the IEP had two goals, the first focused on improving the Student's completion of structured paragraphs from 1/5 to 4/5 attempts; the second focused on improving the Student's spelling of commonly used words appropriate to the 3-5 grade vocabulary, from 70% accuracy to 90% accuracy. D2 p.12. These goals would use data from teacher observation, the Student's own work, and peer feedback. D2 p.12.

35. The IEP team listed 13 accommodations the Student could access, as well as 120 minutes per year of OT support, for the duration of the December 2022 IEP. D2 p.14-15. These accommodations included materials and practices such as access to follow-up practice time, access to a calculator, extra time to complete assignments, and student-selected breaks. Each of these accommodations was to be available daily and located in all school settings. D2 p.14-15.

36. The IEP called for the following services for the Student:

Services 12/14/2022 - 12/13/2023

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Related							
No	Speech Language Pathology	SLP	SLP	90 Minutes / Monthly	Special Education	12/14/2022	12/13/2023
Special Education							
No	MATH	Special Education Staff	Special Education Teacher	250 Minutes / Weekly	Special Education	12/14/2022	12/13/2023
No	WRITTEN LANGUAGE	Special Education Staff	Adapted PE Teacher	250 Minutes / Weekly	Special Education	12/14/2022	12/13/2023
No	SOCIAL/BEHAVIOR	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	12/14/2022	12/13/2023
No	SOCIAL/BEHAVIOR	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	Special Education	12/14/2022	12/13/2023

Total minutes per week of building instructional time available for this student (excluding lunch):

1825 minutes per week

Total minutes per week student is served in a special education setting: 597.5 minutes per week

Percent of time in general education setting:

67.26% in General Education Setting

D2 p.17.

37. The IEP team's offer of educational placement includes SDI in each area the Student was found to qualify for services in and is consistent with the contents of the IEP itself.

38. At hearing, both Ms. Connelly and Ms. Vesmanova stated that the Student's ability to tolerate strong sensory stimuli had notably improved over the course of the

2022-2023 school year, particularly when he had access to noise-cancelling headphones or a book. D2, p.17, Tr. p. 216 (Connelly), Tr p. 90-91 (Vesmanova).

39. By December 2023, the Student had met his goal in communication, using 5 story components in retelling experiences, though it was noted the Student would only use story components if prompted by an instructor. D3 p.7. The Student was much more positive about math, and though progress is not denoted for this period, the Student's math goals for the December 2023 IEP centered on addition and subtractions of fractions, imply the Student was able to make progress on his earlier goals. D3 p.8, In Motor/OT, the Student had made "significant gains," but his mood and participation were still very mood dependent. D3 p.8. To social/behavior, the Student was noted to continue to struggle with self-regulation but had "made considerable progress." D3 p.9. The Student was able to progress in writing, and though he often had to be helped to come up with ideas around writing, that he was writing in fully formed sentences with clear ideas and 95% accurate spelling. D3 p.10.

December 2023 IEP

40. On December 12, 2023, the IEP team met to develop a new IEP for the Student. D3 p.1. The team met over Microsoft Teams. D3 p.17. The District sent an invitation to join the IEP team meeting to the Parents on November 20, 2023. D3 p.1.

41. The December 2023 IEP notes that the next IEP meeting must occur before December 11, 2024, and that the next IEP start date was December 12, 2024. D3 p.3. The December 2023 IEP would control the Student's placement until December, 2024. D3 p.3.

42. The IEP team included Ms. Parent's feedback on the Student's education, which included concern that the Student's impulsive behavior hindered his ability to form friendships and succeed academically, despite the Student's desire to perform in both categories. D3 p.5.

43. The IEP team considered statements from the Student's general education teachers, noting that he had an A grade in Theatre, Technology, and US History, though noted the US History work was modified by an unspecified special education teacher. D3 p.6.

44. The IEP team examined the Student in the areas of communication/SLP, math, motor/OT, social/behavior, and written language. D3 p. 6-10.

45. The communication section of the IEP was completed by Ms. Connelly. D3 p.6. This section noted the Student participated in a weekly social skills group, but also

noted the Student's anxiety around timing and routine, and worrying other students would laugh at him. D3 p.6. This section noted the Student would continue to benefit from speech and language services, but stated services would support the student in Social/Behavior and Written Language SDI, and did not create new goals for the Student. D3 p.6-7.

46. The math section of the IEP does not state who filled it out, but notes that his attitude has improved and the Student can work independently for larger chunks of time. D3 p.7.

47. The following two goals were set for math:

Skill: Problem Solving

By 12/11/2024, when given when given a two step word problems at 4th grade level and a visual model of the problem [REDACTED] will identify the steps, write down the number sentences and solve the problems improving ability to solve multistep word problems from 0/5 problems solved correctly to 4/5 problems solved correctly as measured by student work samples, teacher assessments, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: MATH

By 12/11/2024, when given a problem requiring addition or subtraction of fractions with unlike denominators [REDACTED] will use the multiplication chart, find the least common denominator, and solve the problem improving ability to add and subtract fraction with unlike denominators from 0/5 opportunities to 4/5 opportunities as measured by student work samples, teacher assessments, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D3 p.7-8.

48. The Motor/OT section of the IEP was completed by Ms. Leggitt. D3 p.8. The OT section of the IEP also included no specific goals, but noted OT services would support the Student in social/behavior. D3 p.9. The plan for OT services appears to be largely the same as the previous year.

49. The social/behavior section of the IEP noted the Student had made considerable progress with self regulation, but still voiced his opinion loudly and crudely, and struggled not to start citing things unrelated to the classroom. D3 p.9. This section does not state who wrote it. D3 p.9.

50. Two goals were set for the social/behavior section of the December 2023 IEP:

Annual Goal: SOCIAL/BEHAVIOR

By 12/11/2024, when given a social situation where Henry feels frustrated with someone [REDACTED] will use a strategy such as ignoring, asking for help, or taking a break improving ability to resolve frustrating situations from 2/4 opportunities to 3/4 opportunities as measured by teacher observations, student self assessment, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: SOCIAL/BEHAVIOR

By 12/11/2024, when given a social situation where [REDACTED] used offensive language, tone, or gestures and asked to reflect on his behavior with prompting such as "was this expected behavior?" "please match my voice," "what could you have done differently?" [REDACTED] will take a short break as needed to reflect on his behavior and respond to the prompt appropriately before reengaging socially improving to reflect and correct own behavior from 2/4 opportunities to correct behavior to 3/4 opportunities to correct behavior as measured by teacher observations, student self assessment, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D3 p.9-10.

51. The written language section of the IEP does not note its author. D3 p.10. This section notes that the Student needed to be pushed and challenged, but had made some progress toward independent writing. D3 p.10.

52. The written language section of the IEP had two goals, which were:

Annual Goal: WRITTEN LANGUAGE

By 12/11/2024, when given a 7th grade level writing assignment in class [REDACTED] will review the assignment rubric, related texts and teacher provided materials such as examples and graphic organizers, and will complete the assignment improving ability to complete 7th grade level writing assignment from 0/5 opportunities to 4/5 opportunities as measured by student work samples, teacher assessments, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

Annual Goal: WRITTEN LANGUAGE

By 12/11/2024, when given an opportunity to edit own writing for spelling, grammar, and writing conventions, and teacher feedback [REDACTED] will use teacher feedback and edit his work improving ability to edit own writing from 1/4 opportunities to 3/4 opportunities as measured by student work samples, teacher assessments, data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D3 p.10.

53. Prior to the IEP team meeting, Ms. Vesmanova informed Ms. Parent that she believed the Student had outgrown “sheltered class” and it would be a good time to transition the Student to the general education writing classes. D14 p.1. Ms. Vesmanova believed this would be challenging, but ultimately positive, for the Student. D14 p.1.

54. The IEP team listed 10 accommodations the Student could access, as well as 120 minutes per year of OT support, for the duration of the December 2023 IEP. D3 p.11-12. These accommodations included items such as: extra time to complete assignments; modified grading; and student-selected breaks; and others.⁷ D3 p.11.

55. The IEP team recommended the following services for the Student:

⁷ It is worth noting that the multiplication table option is on this list twice, once specifying a grade level and once not.

Services 12/13/2023 - 12/11/2024

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Related							
No	Speech Language Pathology	SLP	SLP	90 Minutes / Monthly	Special Education	12/13/2023	12/11/2024
Special Education							
No	MATH	Special Education Staff	Special Education Teacher	250 Minutes / Weekly	Special Education	12/13/2023	12/11/2024
No	SOCIAL/BEHAVIOR	Special Education Staff	Special Education Teacher	250 Minutes / Weekly	Special Education	12/13/2023	12/11/2024
No	WRITTEN LANGUAGE	Special Education Teacher	Special Education Teacher	90 Minutes / Weekly	General Education	12/13/2023	12/11/2024

Total minutes per week of building instructional time available for this student (excluding lunch):

1825 minutes per week

Total minutes per week student is served in a special education setting:

522.5 minutes per week

Percent of time in general education setting:

71.37% in General Education Setting

D3 p.14.

Seventh Grade, 2023-2024 School Year

56. The Student historically received private math tutoring, which Ms. Parent discontinued when the Student entered the seventh grade, as she felt the Student was no longer making progress and was largely coloring during his tutoring time. Tr. p.339-340 (Ms. Parent).

57. In the seventh grade, the Student's general education classrooms typically had about 30 students in them. Tr. p.341 (Ms. Parent). The Student struggled with large classrooms. Tr. p.341 (Ms. Parent). The Student told Ms. Parent that he felt embarrassed to be in a large classroom. Tr. p.342 (Ms. Parent). Ms. Parent observed the Student showing significant anxiety regarding the school bell. Tr. p.342 (Ms. Parent).

58. The Student received mostly A's and B's in seventh grade, but Ms. Parent believed that this was not consistent with what she was seeing, and that his work was well-below the grade level. Tr. p.342-343 (Ms. Parent). Some of the Student's work appeared to be written by another party, which District staff referred to as scribing for the Student. Tr. p.343-344 (Ms. Parent). It is not clear in what subjects or how the Student accessed scribing.

59. Though he struggled with stimuli in many circumstances, sensory demands were not overwhelming in all situations, and the Student was able to participate successfully in a large theater class in the general education setting. Tr. p.136 (Paris). The Student even delivered lines to a live audience. Tr. p.145 (Paris). During hearing,

Ms. Leggitt testified that the Student was not so unable to navigate sensory concerns that he would not be able to participate in public schools. Tr. p. 172 (Leggitt).

60. In fall of 2023, the Student was performing math at approximately a third grade level. P7 p.2. As of June, 2024, the Student was performing math at approximately a fifth grade level. D12 p.1.

61. The Student was able to improve his performance in math, rising from 0/5 correct multistep functions to 2/5 in April of 2024, and the same with adding and subtracting fractions. D4 p.1-2. The Student's written language showed improvements from 0/5 successful completions of seventh grade writing assignments to 1/5 in April of 2024, and 3/5 in June of 2024, though the Student's use of feedback and editing skill usage did not improve. D4 p.2-3. The Student's rate of strategies to resolve frustrating strategies, per his social/behavior SDI, met the goal of 3/4 opportunities in January, 2024, but fell back to 2/4 in April and June of the year. D4 p.3. However, the Student met his other social/behavior goal, of 3/4 successful reflections by June 17, 2024, up from 2/4 previously. Overall, the Student either met or made progress on all but one goal from the December 2023 IEP during the 2023-2024 school year.

62. As early as May 2024, Ms. Parent began the enrollment process for the Student at APL. P2 p.1. Ms. Parent learned about APL from a colleague, whose autistic son found success there after repeatedly eloping from the District's schools. Tr. p.349 (Ms. Parent).

Eighth Grade, 2024-2025 School Year

63. During the eighth grade, the Student attended APL. D17 p.1. On June 20, 2024, Ms. Parent removed the Student from the District. D17 p.1, D19 p.1. The Student was not sent to APL by the District but enrolled unilaterally by Ms. Parent. D17 p.1. Ms. Parent informed the District she would be placing the Student at APL via her June 20, 2024 email. D17 p.1. Ms. Parent's email mentioned the Student was unhappy with this decision and would miss his friends. D17 p.1. Ms. Parent later reached out to Ms. Vesmanova, asking to pass along a message from the Student to his friends, and that he was doing well. D18 p.1.

64. When he started at APL, the Student began to take a public bus to and from school. D18 p.1.

65. APL offered the Student significantly smaller classes, with the Student's English class having four other students, all of the same grade level. Tr. p. 530 (Sutherland).

66. At the first Parent/Teacher conference at APL, in October of 2024, Ms. Parent was informed the Student had advanced 3-4 grade levels in math and English

language arts (English). Tr p.357-358, 390 (Ms. Parent). Ms. Parent believed the Student's progress was less than 3-4 years in English and that his work was about at the level she would expect for someone of his age. Tr p.390-392 (Ms. Parent).

67. At hearing, APL Staff stated that the Student's progress at APL was exaggerated. Tr. p. 549-550 (Sutherland) and Tr. p. 499 (Baker). At the time of the conference, the Student had regressed from third grade math performance to second grade math performance. Tr p.504-505 (Sutherland), D6 p.22.

68. The Student's English and social studies teacher, Mr. Sutherland,⁸ believed that by the end of eighth grade, the Student was functioning on a sixth grade level in English and seventh grade in math. Tr. p.550-551 (Sutherland). The Student's testing data shows the Student performed at a fourth grade level in math at this time. D6 p.22.

69. The last day of school for the District, for the Student's eight grade year, was June 18, 2025. D24 p.2. The ninth grade for the Student, the 2025-2026 school year, would begin September 3, 2025.

May 2025 IEP

70. On March 3, 2025, Ms. Parent reached out to the District requesting the Student receive an educational placement at APL, that she be reimbursed for the Student's tuition at APL, and to schedule an IEP meeting. P11 p.3. On April 1, 2025, Ms. Vesmanova reached out to Ms. Parent requesting additional information about the Student's performance in math, written language, social/behavior, and speech, and asking Ms. Parent to request formal data in those areas from APL. D12 p.3.

71. Following Ms. Vesmanova's email on April 1, 2025, Ms. Parent contacted Mr. Sutherland, and explained that, in order for the District to pay for the Student's attendance at APL, she needed to gather data. P12 p.2. In this email, Ms. Parent states that the information she requested would be related to an IEP. P12 p.2. In an April 10, 2025, email, Mr. Sutherland responded and provided statements from APL teachers, and inquired if Ms. Parent had requested an evaluation for the Student, if the Student had previously had an IEP, and if so, what year it was last in effect. P12 p.2.

⁸ Mr. Sutherland is a teacher at APL. Mr. Sutherland received a bachelor's from Marlboro College in American Studies and Political Studies, in 2010, as well as a master's in teaching history from Bard College in 2020. He is certified to teach social studies in Washington State. He has roughly 7 years of teaching experience. Tr. p. 516-518 (Sutherland). Mr. Sutherland was also responsible for managing the Student's progress at APL that year. Tr. p. 516-518 (Sutherland). He does not appear to have any special education training and does not appear to be certified to teach English in Washington State.

72. On April 2, 2025, Ms. Mochnick emailed the Parents and informed them that, though she would conduct in-house evaluations, a private school reevaluation team would need to conduct the reevaluation in this matter. P13 p.2. Ms. Mochnick provided information for Ms. Parent to contact the private school reevaluation team and offered to handle it personally if there were further delay. P13 p.2.

73. On May 1, 2025, the IEP team met to develop an IEP for the Student. D5 p.1. The team met over Microsoft Teams. D5 p.20. The IEP team considered significant amounts of data from APL. D5 p.12, Tr. p. 81, 114 (Vesmanova).

74. The IEP team included Ms. Parent's feedback on the Student's education, noting the Student's weaknesses as being easily distracted; outsized reactions; inflexibility; and anxiety speaking in front of large groups. D5 p.8. She noted the Student's strengths as excellent memory; deep focus when engaged, the Student's artistic talent, his ability to form close personal relationships, and his social-emotional reciprocity as he has learned from his ABA therapy. D5 p.8.

75. The IEP team considered statements from the Student's general education teachers, noting he was in the general education setting for English, US history, and Physical Education (PE). D5 p.10.

76. The IEP team examined the Student in the areas of communication/SLP, math, motor/OT, social/behavior, and written language. D5 p. 10-14.

77. The communication section of the IEP was completed by Ms. Connelly. D5 p.10. This section also states that the Student was not enrolled in the District in January 2025, when his triennial reevaluation was due, noting that his most recent evaluation was out of date and recommending speech and language be assessed as part of a comprehensive triennial reevaluation. D5 p.10.

78. The communication section included input from APL staff, who noted the Student was in a social skills class about two hours per week and was taught by a BCBA. D5 p.11. APL staff noted that at the beginning of class, the Student would refuse to engage in practicing social skills, but now actively participates and shows increased tolerance for engagement. D5 p.11.

79. The communication section of the IEP recommended the Student reduce from 90 minutes monthly to 60 minutes monthly of speech and language support, as 90 minutes was likely too restrictive for the Student. D5 p.11. The section again waived setting goals, referring the reader to the social/behavior section for corresponding goals. D5 p.12.

80. The math section of the IEP used information from the Student's math teacher at APL, which noted that the class was working on basic math skills, including operations in multi-digit whole numbers, fractions, and decimals. D5 p.12. This section noted the Student was becoming comfortable with these operations. D5 p.12.

81. The following goal was set for math:

Annual Goal: MATH

By 04/30/2026, when given a set of at least of 5 word problems involving a ratios and/or percents [REDACTED] will use teacher provided models, show work and solve the problems improving ability to solve word problems involving ratios and/or percents from 1 out of 5 problems solved accurately to 4 out of 5 problems solved accurately as measured by student work samples, teacher assessments, and systematically collected data

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D5 p.12.

82. The Motor/OT section of the IEP was completed by Ms. Leggitt. This section included a summary of the Student's OT services, which noted that the Student had made "very strong gains" in his ability to self-regulate, and that it may be appropriate to exit the Student from OT services. D5 p.13. Ms. Leggitt suggested a reevaluation take place to confirm this. D5 p.13.

83. The social/behavior section of the IEP noted the following goal, with no other information:

Annual Goal: SOCIAL/BEHAVIOR

By 04/30/2026, when given an opportunity to engage with peers socially during unstructured time [REDACTED] will use the opportunity to engage with peers in an appropriate manor by playing games or having a conversation improving ability to engage socially in an appropriate manor during unstructured time from 2/5 opportunities to 4/5 opportunities as measured by teacher observations, systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D5 p.13.

84. The written language section of the IEP incorporated feedback from APL's English teacher, who noted the Student was doing very well in English. D5 p.14. The Student was using grade-level materials for his work, though he still needed support and guidance to follow a 5-paragraph structure. D5 p.14.

85. The written language section of the IEP had one goal, which was:

Annual Goal: WRITTEN LANGUAGE

By 04/30/2026, when given an opportunity to complete a grade level writing assignment [REDACTED] will use provided scaffolds, such as models, rubrics, and graphic organizers, and complete the assignment improving ability to complete grade level writing assignments from 80% meeting expectation to 90% meeting expectation as measured by student work samples, teacher assessments, systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report

Report of Student Progress: Quarterly

D5 p.14.

86. The IEP team listed four accommodations the Student could access, as well as 120 minutes per year of OT support, for the duration of the May 2025 IEP. D5 p.15. These accommodations were: break large assignments into smaller parts; preferential seating; student-selected break available; and use of graphic organizer. D5 p.15.

87. The IEP team recommended the following services for the Student:

Services 05/01/2025 - 04/30/2026

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Related							
No	Speech Language Pathology	School Psychologist	SLP	60 Minutes / Monthly	Special Education	05/01/2025	04/30/2026
Special Education							
No	SOCIAL/BEHAVIOR	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	05/01/2025	04/30/2026
No	WRITTEN LANGUAGE	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	05/01/2025	04/30/2026
No	MATH	Special Education Staff	Special Education Teacher	250 Minutes / Weekly	Special Education	05/01/2025	04/30/2026

Total minutes per week of building instructional time available for this student (excluding lunch):

1825 minutes per week

Total minutes per week student is served in a special education setting: 265 minutes per week

Percent of time in general education setting:

85.48% in General Education Setting

D5 p.17.

88. Ms. Parent believed the Student needed to be placed at APL and that this was the only placement the Student could benefit from. P11 p.3, Tr. p.368 (Ms. Parent). The rest of the IEP team disagreed and did not feel placement at APL was necessary for the Student to receive FAPE. Tr. p.82 (Vesmanova), Tr. p.137-138 (Paris), Tr. p.172-173 (Leggitt), Tr. p.225-226 (Connely), Tr. p.305 (Bylsma).

June 2025 Reevaluation

89. The Student received a triennial reevaluation in June, 2025. D6 p.3. Ms. Parent consented to the reevaluation on May 2, 2025. D6 p.2. On August 17, 2025, the District met to discuss the results of the June 2025 reevaluation. D6 p.1. The evaluation team proposed the Student be reevaluated in the following areas: general background, math, motor, review of existing data, written language, communication, medical-physical, reading, and social/behavior. D6 p.3.

90. The evaluation team found the Student qualified for special education under the category of Autism. D6 p.7. The evaluation noted that the Student struggled with foundational operations in math, such as fractions, multiplication, and division while noting the Student has difficulty with multi-step problems; was hindered by his disability in synthesizing, paraphrasing, and articulating his understanding of text which impacted his ability to fully access the general education curriculum; in writing, the Student faced challenges in organizing and expressing ideas coherently, struggled with grammar, punctuation, and spelling, and would often abandon projects without support and that he needed targeted instruction to improve; that the Student struggled to interpret social cues and struggled to maintain social awareness or friendships. D6 p.7-8. The team found the Student required SDI in reading, written language, math, and social/behavioral skills. D6 p.7-8.

91. As part of their review, the evaluation team considered a letter sent by Dr. Adrienne da Silva,⁹ the Student's psychologist. P16, Tr. p.264 (Mochnick). Dr. da Silva noted the Student had a formal diagnosis of autism spectrum disorder, generalized anxiety disorder, and ADHD. P19 p.1. Dr. da Silva further stated that the Student had shown remarkable growth at APL, engaged more than he used to, and maintained confidence in taking academic risks; she believed the Student would not be able to achieve or sustain the gains he had made at APL. D19 p.1. The District had not been

⁹ Dr. Adrienne da Silva is a psychologist. She received an undergraduate degree in art therapy with a minor in clinical psychology, from Emmanuel College, in 2002; a master's in mental health counseling, from Antioch University in 2007; and a doctoral degree in psychology from Antioch University in 2012. Dr. da Silva completed her postdoctoral training at the University of Washington.

made aware of the Student's diagnosis of generalized anxiety disorder prior to this letter. Tr. p. 264 (Mochnick). The District received this letter on June 12, 2025. P20.

92. The Summary of Qualifications and Functioning section of this reevaluation noted that the Student suffered an adverse educational impact in math calculation, math problem-solving, written expression, spelling, reading comprehension, and social-emotional behavioral skills. D6 p.8. The reevaluation found the Student eligible to receive SDI in reading, written language, math, and social/behavior. D6 p.8.

93. The evaluation team recommended the Student's IEP team include SDI in reading, written language, social/behavior, and math. D6 p.9. The evaluation team also recommended the Student receive SLP services. D6 p.9. Reading was added as an area of SDI based upon reading comprehension deficits present in the Student's testing. D6 p.9.

94. No dissenting opinions were logged by any members of the reevaluation team, however, no signatures or dates were collected either. D6 p.10.

95. The general background section included notes from the Student's English and WA State History teacher, Mr. Sunderland, at APL. D6 p.11-12. This included the Student's strengths, particularly his dedication and willingness to revise work and demonstrate understanding of grade-appropriate content. D6 p.11-12. Mr. Sunderland also included extensive notes about the Student's challenges, including his ability to "take in information and then put it in his own words," which Mr. Sunderland suggested impacted his confidence. D6 p.11-12. Mr. Sunderland notes that the Student does not seem to be able to internalize information, preferring to repeat information from within an assignment, as well as struggling to understand what he is trying to accomplish. D6 p.11-12.

96. The Student's math teacher at SLP also provided feedback, noting the Student was willing to work and try hard, that he put forward his best effort, and noting the Student was "progressing in leaps and bounds." D6 p.11-12.

97. This section also reported the Student's attendance, noting that 10% of school days or more being impacted by absences can impact learning, and showing that the Student has not missed more than 6.1% of classes in any school year. D6 p.14.¹⁰

¹⁰ During the 2025-2026 school year, the Student's absences and tardies appear to have increased radically. D10 p.1-2.

98. The communication section of the Student's reevaluation was conducted by Rachel Connelly.¹¹ D6 p.14. Ms. Connelly noted the Student had not accessed speech and language services during the 2024-2025 school year. D6 p.14. The Student was assessed using the following tools: the CELF-5, the Test of Narrative Language, Second Edition (TNL-2); therapist-created questionnaire sent to APL staff, review of special education documents; and review of academic information. D6 p.14-15.

99. On the CELF-5, the Student scored poorly, mostly in the single-digit percentiles. D6 p.15-17. He scored in the borderline/marginal/at risk range in all areas of the test. D6 p.16. The Student scored in the single-digit percentiles on all aspects of the TNL-2. D6 p.17. This is considered very poor for his age. D6 p.18. It should be noted that the test includes a narrative that the Student may have under-performed on this test due to anxiety about time. D6 p.17. The assessment notes include a note that the Student struggles with foundational narrative skills and formulating logical stories. D6 p.19.

100. The communication section also included consideration of the experiences the teachers at APL had with the Student, via polling data and written comment. D6 p.19-21. The APL English and history teachers both noted that the Student struggled due to fear of self-expression, but showed strong attention in class, ability to follow directions, and correct use of grammar during conversation. D6 p.21. Areas for growth are noted as vocabulary, responding to questions effectively, adapting to suit an audience, interpreting social situations accurately, and participation in group activities. D6 p.21.

101. The communication section of the evaluation concluded that the Student's diagnosis of autism had an adverse impact on the Student's educational performance, and that he required SDI and related services to benefit. D6 p.21. The team recommended SLP services for the Student. D6 p.21.

102. The math section of the reevaluation was completed by Emma Mochnick,¹² school psychologist for the District. D6 p.21. Her review included a review of records (including an APL learning plan), IEP review, and the Kaufman Test of Educational

¹¹ Ms. Connelly is a speech-language pathologist for the District. Ms. Connelly received an undergraduate degree from Western Washington University in communication sciences and disorders in 2010. Ms. Connelly received a master's degree in speech-language pathology from the University of Pittsburgh in 2012. She possesses a Certificate of Clinical Competence from the American Speech-Language Hearing Association, a license from the Washington State Department of Health, and an Educational Service Associate certificate. Tr. p.210-211 (Connelly).

¹² Ms. Mochnick is a school psychologist with the District. She received an undergraduate degree in K-12 education from Western Oregon University in 2016, and an educational specialty master's in school psychology from Seattle University in 2023. Tr. p.259 (Mochnick). She has received a national certification of school psychology from the National Association of School Psychologists and was in her third year of practice at the time of hearing. Tr. p.259 (Mochnick). Ms. Mochnick has completed roughly 70-80 special education evaluations per year since starting with the District. Tr. p.260 (Mochnick).

Achievement, Third Edition (KTEA-3). D6 p.21. The Student's previous math evaluations and testing typically showed the Student at or below the 1st percentile in math. D6 p.22.

103. The APL learning plan contained three goals: "math practices of perseverance and managing challenges/frustrations"; "problem solving and breaking down problems into steps"; and "working on sorting and recognizing coins and types of money, performing addition, subtraction, multiplication, and division operations with the aid of a calculator." D6 p.22.

104. Review of the Student's iReady math scores showed the Student performing at a third grade level in fall of 2024, and the second grade level in winter of 2025. D6 p.22. By Spring of 2025, the Student had reached the fourth grade level. D6 p.22.

105. Review of the Student's progress on his 2024 goals showed the Student had achieved his 2024 math goal in regard to problem solving by June of 2024. D6 p.22. The Student had made some progress on his second math goal, regarding his ability to add and subtract fractions with unlike denominators. D6 p.22.

106. The Student was also administered the KTEA-3 as part of his June 2025 reevaluation. D6 p.23. The Student scored in the 1st percentile in math. D6 p.23-24. The Student was noted to be using mental math and his fingers to perform calculations, and to struggle with multi-step math problems. D6 p.23.

107. The evaluation team determined the Student qualified for SDI in math, and suggested a focus on strategies for improving computation skills and the development of problem-solving strategies. D6 p.24.

108. The Medical-Physical section of the reevaluation was completed by Amelia Kaune.¹³ The Student passed his hearing and vision tests and the evaluation team does not note any other information the IEP team would need to make a decision. D6 p.23-24. This section of the reevaluation included feedback from Ms. Parent, who noted the Student was very easily distracted, shut down around groups of people, and was sensitive to noise and crowds, which caused him anxiety. D6 p.24.

109. The Motor/OT section of the reevaluation was completed by Holly Baber,¹⁴ and included a file review, observations of the Student, standardized assessment data, and Student input via administration of the Sensory Processing Measure 2 Self-Assessment (SPM-2). D6 p.26. The Student was stated to have made "very strong

¹³ Ms. Kaune did not appear for hearing, and her educational and professional history is not on record.

¹⁴ Ms. Baber did not appear for hearing, and her educational and professional history is not on record.

gains in his ability to self-regulate” by June of 2024. D6 p.26. The Student was able to complete the SPM-2, though it was noted that during administration, the Student avoided eye contact, picked at himself, and was startled by the school bell. D6 p.26. On the SPM-2, the Student reported moderate difficulty in vision processing, hearing, touch, taste and smell, body awareness, and planning ideas. D6 p.26-27. The Student scored typical in social participation and balance and motion. D6 p.27. The Student’s overall score showed the Student’s sensory difficulties at moderate. D6 p.27.

110. The evaluation team found the Student did not require SLP in OT, but strongly urged any IEP teams to consider offering the Student OT services as an additional support. D6 p.27.

111. The reading section of the evaluation was also completed by Ms. Mochnick, and included a review of records, a learning plan, teacher input, and the KTEA-3. D6 p.27. The review of records noted that the Student had not previously qualified for special education in reading but went over the Student’s previous test results as far back as 2019. D6 p.27-28.

112. The Student’s learning plan from APL had two goals: attempt to reach grade level for reading comprehension, and synthesizing information from texts and summarizing the texts in his own words. D6 p.27.

113. Regarding reading and writing, in the iReady test the team reviewed the Student performed at the third grade level in the fall of 2024, fourth grade level in winter of 2025, and sixth grade level in spring of 2025. D6 p.28.

114. The evaluation team considered the statements of Mr. Sunderland, who reported the Student to be very dedicated to meeting expectations and following rules, did well with recall of key information and on multiple choice tests, and could understand grade level content discussion in English and History. D6 p.28. Mr. Sunderland noted the Student was particularly drawn to literature, novels, or short stories with action based narratives and asked good questions to learn vocabulary or find assistance in understanding stories. D6 p.28.

115. The KTEA-3 was administered to the Student to assess his reading and writing. D6 p.29. The Student performed overall in the average range, scoring in the 32nd percentile. D6 p.29. The Student performed in the 63rd percentile in decoding composite, and 23rd percentile in reading understanding composite. D6 p.29. Though the Student scored in the average range for each of the decoding sub-tests, he scored below average in reading comprehension, and the reading comprehension composite scored in the low average. D6 p.29.

116. The Student was also tested for dyslexia, where he tested as having a low risk level of dyslexia. D6 p.30.

117. The evaluation team found the Student required SDI in reading comprehension. D6 p.30.

118. The social/behavior section of the June 2025 reevaluation was also created by Ms. Mochnick. D6 p.30. The assessment was completed with the following tools: a review of records, a learning plan, teacher input, an IEP review, administration of the Social Responsiveness Scale, Second Edition (SRS-2), Social Skills Improvement System Social-Emotional Learning Edition (SSIS SEL), and Behavior Assessment System for Children, Third Edition (BASC-3). D6 p.30.

119. The review of records examined the Student's previous eligibility finding for social/behavior, which started with an evaluation from May 2016 and was expanded in the 2022 reevaluation. D6 p.31.

120. The Student's learning plan at APL, regarding social-emotional goals, focused particularly on increasing confidence and comfort with mistakes, making friends at APL, requesting breaks when needed, appropriately gaining the attention of peers, and independently returning from breaks. D6 p.31. Though the Student had BCBA consultation as an intervention, APL had no behavior support plan in place for the Student. D6 p.31.

121. The teacher input section included review of reports from Mr. Sunderland, noting that the Student was very aware of his scheduled and dedicated to be ready at the start of every class. D6 p.31. It also noted the Student had difficulty forming relationships with peers, despite a positive attitude, attributing this to the Student not often naturally engaging with his peers. D6 p.31. The Student had an easier time engaging socially in small classrooms of three than in APL's large classrooms of seven students. D6 p.31.

122. The IEP review aspect of the social/behavior section included the information from the December 2022 and December 2023 IEPs, as seen in their respective sections above. The information regarding the Student's progress on goals noted that between January and June of 2024, the Student made "significant progress" toward the goal of appropriately resolving frustrations, noting he had far fewer significant outbursts. D6 p.31-32. To his goal of reflecting on his behavior and responding when requested, the Student met his goal by June of 2024 and showed significant progress throughout the year, based on SLP input. D6 p.32.

123. The SRS-2 data included input from Ms. Parent, and Mr. Sunderland. D6 p.32. The Student received an average of 78, in the severe range, from Ms. Parent, and 68, in the moderate range, from Mr. Sunderland. D6 p.32. This test assesses the severity of the Student's social deficits. D6 p.32.

124. The SSIS SEL is a self-assessment measurement, which monitors the Student's overall social-emotional learning abilities. D6 p.33. The Student scored in the 10th percentile overall, landing in the 16th percentile for self-awareness, 23rd percentile for self-management, 3rd percentile for social awareness, 8th percentile for relationship skills, and 22nd percentile for responsible decision making. D6 p.33. The Student's core skills were in the 27th percentile. All of the Student's scores were in the below average range, with the exception of self-management and responsible decision making, where he scored in the lowest end of average. D6 p.34.

125. The BASC-3 tested the Student in three areas: externalizing problems, internalizing problems, school problems, behavioral symptoms, and adaptive skills. D6 p.34. This test considered the input of Ms. Parent and Mr. Sunderland. D6 p.36. Ms. Parent scored the Student as "at risk" in externalizing problems, and adaptive skills, "clinically significant in behavioral symptoms, non-significant in internalizing problems, and did not provide an overall score in school problems. D6 p.36-37. Mr. Sunderland scored the student as "at risk" in behavioral symptoms and adaptive skills, clinically significant to internalizing problems, and non-significant to externalizing problems and school problems. D6 p.36-37.

126. The team determined the Student required SDI in social/behavior skills. D6 p.37.

127. The written language section of the reevaluation was completed by Ms. Mochnick, and included a review of records (including an APL writing sample), teacher input statements, an IEP review, and the KTEA-3. D6 p.38.

128. Mr. Sunderland shared that the Student was curious and dedicated in English, but struggled to synthesize academic materials, which is to say the Student can review materials, but cannot restate it or interpret the contents. D6 p.38. Mr. Sunderland regularly found the Student copying information from prompts into his answers on assignments, as he did not understand how to find and explain information within texts. D6 p.38.

129. The IEP review showed that the Student had made significant progress in his first goal, to complete seventh grade writing assignments, from 0/5 opportunities to 4/5, though the documentation does not keep logs as to how many opportunities the Student was offered to do this. D6 p.38-39. To his second goal, capitalizing on

opportunities to edit his own writing without seeking assistance from the teacher, from 1/4 opportunities to 3/4 opportunities, the Student made significant progress from February to June 2024. D6 p.39.

130. The Student's writing sample was shared by Mr. Sunderland. D6 p.39. The writing sample followed the required structure and showed the student understood the theme and content of the assignment, but contained numerous grammatical, mechanical and organizational issues. D6 p.39-40. The assignment had many instances of poor spelling despite being typed in a word processor and the Student having access to assistive technology and spell check. D6 p.39.

131. On the KTEA-3, the Student performed in the 10th percentile in overall written language, with a spelling in the 13th percentile and written expression in the 8th percentile. D6 p.41.

132. The reevaluation team determined the Student required SDI in written language. D6 p.41.

133. During the evaluation meeting, Ms. Parent requested the Student be placed in APL. D6 p.42. Ms. Parent believed the Student needed to be placed at APL and that this was the only placement the Student could benefit from. Tr. p.368 (Ms. Parent). Ms. Parent would not consider enrollment in District's schools under any condition. D6 p.42. Ms. Mochnick informed Ms. Parent that placement was a decision for the IEP team, not for the reevaluation team. Tr. p.290 (Mochnick).

134. The PWN noted that the Parents were not considering enrollment in the District's school. D6 p.42.

September 2025 IEP Amendment

135. Following the June 2025 reevaluation, the District held an IEP meeting to determine what services would be appropriate to the Student and to incorporate the information from the reevaluation. D7. The IEP team met on September 3, 2025, to discuss amending the IEP. D7 p.1. September 3, 2025, was the first day of school for the District. D24 p.3.

136. The September 2025 IEP amendment is largely the same as the May 2025 IEP. This section incorporated information from the June 2025 reevaluation. The only substantive changes are a new math goal and the inclusion of a new section about reading SDI, which set the following goal:

Annual Goal: READING

Skill: reading comprehension

By 04/30/2026, when given 9th-grade level reading passage and inferential/expository questions [REDACTED] will correctly answer inferential/expository comprehension questions improving reading comprehension from 0% accuracy across 4 out of 5 trials to 80% accuracy across 4 out of 5 trials as measured by systematic data collection.

D7 p.15.

137. The September 2025 IEP amendment adds one goal to the math section of the IEP:

Annual Goal: MATH

Skill: order of operations

By 04/30/2026, when given 10 multi-step math problems involving whole numbers, fractions, or decimals [REDACTED] will correctly apply the order of operations (PEMDAS) improving math skills from 0/10 problems answered correctly to 8/10 problems answered correctly as measured by systematic data collection

How will progress toward this goal be reported?

☒ Written in Progress Report
Report of Student Progress: Quarterly

D7 p.13.

138. The IEP team recommended the following services for the Student:

Services 09/04/2025 - 04/30/2026

Concurrent	Service(s)	Service Provider for Delivering Service	Monitor	Frequency	Location (setting)	Start Date	End Date
Related							
No	Speech Language Pathology	School Psychologist	SLP	60 Minutes / Monthly	Special Education	09/04/2025	04/30/2026
Special Education							
No	READING	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	09/04/2025	04/30/2026
No	SOCIAL/BEHAVIOR	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	09/04/2025	04/30/2026
No	WRITTEN LANGUAGE	Special Education Staff	Special Education Teacher	75 Minutes / Weekly	General Education	09/04/2025	04/30/2026
No	MATH	Special Education Staff	Special Education Teacher	250 Minutes / Weekly	Special Education	09/04/2025	04/30/2026

Total minutes per week of building instructional time available for this student (excluding lunch):

1825 minutes per week

Total minutes per week student is served in a special education setting:

265 minutes per week

Percent of time in general education setting:

85.48% in General Education Setting

D7 p.20.

139. When comparing the services offered by the May 2025 IEP and September 2025 IEP amendment, the only thing that is changed is the addition of “75 Minutes / Weekly” of reading. Comparing D7 p.20 and D5 p.17. The total minutes of instruction per week, minutes in special education, and percent of time in general education are identical in both documents.

140. The Student’s LRE was found to be a public school placement. D7 p.21. Ms. Parent believed the Student needed to be placed at APL and that this was the only placement the Student could benefit from. Tr. p.368 (Ms. Parent). The rest of the IEP team disagreed and did not feel placement at APL was necessary for the Student to receive FAPE. Tr. p.59-60, 82 (Vesmanova), Tr. p.137-138 (Paris), Tr. p.172-173 (Leggitt), Tr. p.225-226 (Connely), Tr. p.305 (Bylsma).

141. At no time did the IEP team consider ESY for the Student. D7 p.1 and D7 p.25.

Testimony Regarding Unknown Dates

142. During hearing, when discussing classroom environments as a member of the IEP team, Ms. Parent recalls being told that the small classroom setting of a special education was not challenging enough, but that the large environment of general education was too much for the Student to succeed. Tr. p.346 (Ms. Parent). It is unclear who said this or when.

143. During hearing, Ms. Parent stated that while she was dropping the Student off for a school field trip at a pumpkin patch, she saw another student see the Student arriving, and say “oh, God, not that kid.” Tr. p.330. It is unclear when this took place or if the Student overheard this comment. There was no other testimony the Student faced any sort of bullying, harassment, or harm from other students.

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 most of the issues in this matter. RCW 28A.155.260(1). In a due process hearing, the burden of proof is a preponderance of the evidence. RCW 28A.155.260(3). Because the Parents seek reimbursement for a unilateral parental placement, the Parent(s) bear(s) the burden of proof as to the appropriateness of such placement. RCW 28A.155.260(2).

The IDEA and FAPE

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

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

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

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

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

(III) caused a deprivation of educational benefits.

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

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

a student FAPE is a fact-specific inquiry. As the U.S. Supreme Court has made clear, “[a] focus on the particular child is at the core of the IDEA,” and an IEP must meet a child’s unique needs. *Id.* at 400. The “essential function of an IEP is to set out a plan for pursuing academic and functional advancement.” *Id.* at 399. Accordingly, an IEP team is charged with developing a comprehensive plan that is “tailored to the unique needs of a particular child.” *Id.* at 391. Additionally, the Student’s “educational program must be appropriately ambitious in light of his circumstances” *Id.* at 402.

7. In reviewing an IEP, “the question is whether the IEP is *reasonable*, not whether the court regards it as ideal.” *Id.* at 999 (emphasis in original). The determination of reasonableness is made as of the time the IEP was developed. *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). An IEP is “a snapshot, not a retrospective.” *Id.*

The District’s December 2022 IEP And The Statute Of Limitations

8. The Washington regulation concerning the IDEA statute of limitations provides in relevant part:

The due process hearing request must be made within two years of, and allege a violation that occurred not more than two years before, the date the parent or school district knew or should have known about the alleged action that forms the basis of the due process complaint except the timeline does not apply to a parent if the parent was prevented from filing a due process hearing request due to:

- (a) Specific misrepresentations by the school district that it had resolved the problem forming the basis of the due process hearing request; or
- (b) The school district withheld information from the parent that was required under this chapter to be provided to the parent.

WAC 392-172A-05080(2). The Washington regulation is substantially similar to the statute of limitations in the IDEA. See 20 United States Code (USC) §1415(b)(6)(B) and §1415(f)(3)(C); 34 Code of Federal Regulations (CFR) §300.507.

9. In *Avila v. Spokane School District* 81, 852 F.3d 936 (9th Cir. 2017), the Ninth Circuit Court of Appeals interpreted the statute of limitations set forth in the IDEA. In a question of first impression for the Ninth Circuit, the court held that “the IDEA’s statute of limitations requires courts to bar only claims brought more than two years after the parents...`knew or should have known’ about the actions forming the basis of the complaint.” *Id.* at 937. Under this standard, known as the “discovery rule,” a claim is timely “so long as the complaint is filed within two years of the known or should have

known (“KOSHK”) date.” Collette v. D.C., 2019 U.S. Dist. LEXIS 128520 (D.D.C., August 1, 2019).

10. Only material failures to implement an IEP violate the IDEA. *Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811 (9th Cir. 2007). Minor discrepancies in the services required by the IEP do not violate the IDEA. *Id.*

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

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

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

11. In this case, The Parents requested a due process hearing on this matter on July 23, 2025. Thus, any matter before July 23, 2023 is barred unless an exception exists. The Parents were aware of the Student’s December 2022 IEP from the first day it was proposed, and no evidence has been provided to show the KOSHK date in this case was anything other the start of the IEP. Thus, the only question regarding the December 2022 IEP is if it was properly implemented during the 2023-2024 school year. If the December 2022 IEP was not properly implemented between July 23, 2023 and the entry of the December 2023 IEP in December of 2023, the District may have failed to offer the Student an appropriate educational placement at a material level. If the IEP was properly implemented, the inquiry ends there.

12. The District’s December 2022 IEP was properly implemented. There is no record that the District failed to implement the December 2022 IEP. The District’s witnesses all spoke to the labor performed to implement the Student’s IEP in the fall of 2023, which included ongoing testing and measurement of the Student, communication with Ms. Parent, and education consistent with the requirements of the Student’s December 2022 IEP. The Student’s progress was discussed in the December 2023 IEP and shows that the December 2022 IEP allowed the Student to make progress in all areas of SDI. Thus, it does not appear that a material failure to implement the December 2022 IEP occurred.

13. For the above reasons, the District has shown, by a preponderance of the evidence, that it did not fail to offer appropriate educational placement between July 23, 2023, and December 12, 2023.

The District's December 2023 IEP Offered Appropriate Educational Placement

14. In developing a student's IEP, WAC 392-172A-03110 requires the IEP team to consider:

- (a) The strengths of the student;
- (b) The concerns of the parents for enhancing the education of their student;
- (c) The results of the initial or most recent evaluation of the student; and
- (d) The academic, developmental, and functional needs of the student.

15. As set forth above, the determination as to whether an IEP is reasonably calculated to offer a student FAPE is a fact-specific inquiry that must focus on the unique needs of the student at issue. According to the Ninth Circuit, the pertinent question with respect to whether an IEP offers FAPE is whether the IEP was appropriately designed and implemented so as to provide the student with a meaningful benefit. *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). The appropriateness of an IEP is determined by reviewing its goals and services at the time it was offered and determining whether it was reasonably calculated at that time to confer an educational benefit. *Id.*

16. When determining whether an IEP is appropriate, "the question is whether the IEP is *reasonable*, not whether the court regards it as ideal." *Endrew F.*, 580 U.S. at 399 (emphasis in original) (citing *Rowley*, 458 U.S. at 206-07). The IDEA does not require states to provide disabled children with "a potential-maximizing education," but rather with a "basic floor of opportunity." *Rowley*, 458 U.S. at 197-201. A student is not denied FAPE simply because the district's proposed educational plan provides less educational benefit than that which a student's parents might prefer. *A.W. v. Tehachapi Unified Sch. Dist.*, 2019 U.S. Dist. LEXIS 37815 (E.D. Cal 2019). However, a reviewing court may fairly expect school district authorities "to be able to offer a cogent and responsive explanation for their decisions that show the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances." *Endrew F.*, 580 U.S. at 404.

17. The Ninth Circuit has explained the *Endrew F.* standard as follows:

[T]he 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," [citations 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 2017).

18. In the case of a child who is being educated in a general education classroom, their IEP should be "reasonably calculated to enable the child to achieve passing marks and advance from grade to grade." *Rowley*, 458 U.S. at 203-204 (1982). However, advancement from grade to grade in and of itself does not dispositively mean a child is receiving FAPE. *Id.* at 203 n. 25.

19. When a child is not fully integrated in the regular classroom and not able to achieve on grade level, his IEP need not aim for grade-level advancement. "But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives." *Endrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (U.S. 2017).

20. In the present case, the Student advanced from grade to grade and had "A" grades in his general education classes. The evidence does not show that the Student had to repeat any of the classes he had taken. However, the Student's scores on state-wide assessments regularly placed him far below his grade level. These scores indicate persistent weakness in basic math skills. Similarly, at the 2022 evaluation, the Student's Woodcock-Johnson testing placed him in the 1st percentile across the board for mathematic reasoning. Despite this, the Student's progress on his IEP goals reflect growth, moving to multiplication from addition and subtraction.

21. A similar pattern plays out in all other areas of the Student's IEPs, which show the Student underperforming in written language, but his goals evolving by the December 2023 IEP to read, prepare, and write responses to seventh grade level materials; social behavior had evolved significantly, and the December 2023 IEP expected the Student to remain calm and not swear at peers, when he had previously been tasked with simply learning to say a nice thing to, or ask questions of, his peers.

22. It is therefore concluded that the December 2023 IEP was reasonably calculated to enable the Student to make appropriate progress at the time it was developed. It may not have been "potential-maximizing," but it provided the Student with a basic floor of opportunity as is required for FAPE.

23. The IEP team's offer to place the Student in 71% general education for the December 2023 IEP was a placement with a reasonably high probability of assisting the student to attain his annual goals. This placement considered extensive review of teachers' notes, the Student's performance on his goals the previous years, his ongoing social and educational development, and what the Student would be able to achieve in both a general education and special education setting. The IEP further considered what accommodations would be useful for the Student.

24. Further, when examined under *Endrew F.*, the District's December 2023 IEP showed the Student's evolution from the previous year, both from increasingly complicated goals and from decreasing special education placement. The IEPs clearly included consideration of the progress the Student was making, what levels he was achieving each year, and what needed to be offered to help the Student advance at a suitably ambitious pace, based off his unique circumstances. Thus, the District complied with *Endrew F.*

25. The District complied with all law, including *Endrew F.* suitably ambitious requirements, in the December 2023 IEP. The District has shown, by a preponderance of the evidence, that until December 2024, when the 2023 IEP expired, the District offered appropriate educational placement.

The District Did Not Need A New IEP Between December, 2024, and March, 2025

26. The Student's 2023 IEP expired in December, 2024. Ms. Parent unilaterally enrolled the Student at APL in fall of 2024.

27. Under 34 CFR § 300.137(a), Students placed by a parent in a private school have no right to special education and related services they would receive if enrolled in a public school. The Ninth Circuit follows this analysis in regard to IEPs, finding that unless a private school parent requests a district resume providing IDEA services, a district is not required to continue developing IEPs for their student. *Capistrano Unified Sch. Dist. v. S.W.*, 21 F.4th 1125, 1137 (9th Cir. 2021). Similarly, the Third Circuit has ruled that school districts are not required to *sua sponte* evaluate students who have been unilaterally placed in private schools. *A.B. through K.B. v. Abington Sch. Dist.*, 440 F. Supp. 3d 428, 435 (E.D. Pa. 2020), *aff'd*, 841 F. App'x 392 (3d Cir. 2021).

28. Here, as Ms. Parent unilaterally enrolled the Student at APL, the District had no duty to furnish the Student with a new IEP in 2024 after the December 2023 IEP expired. Ms. Parent did not reach out to request assistance, which would trigger IEP and reevaluation services, until March, 2025. Thus, the District did not deny the

Student an appropriate educational placement for the period of December 2024 to March 2025.

29. Based on the above, the District has shown, by a preponderance of the evidence, that it did not violate the IDEA or deny the Student a proper educational placement during the 2023-2024 and 2024-2025 school years.

The Student's May 2025 IEP, and September 2025 IEP Amendment, Offered Appropriate SDI

30. Ms. Parent was invited to attend the IEP meetings for the May and September 2025 IEP meetings, consistent with WAC 392-172A-05000 (3)(a).

31. The 2025 IEP and its amendment offer educational placement informed by the Student's IEPs, as shown in both year's IEP paperwork, consistent with 392-172A-02060(2)(a). These IEPs included notes about the previous IEPs and incorporated information from previous IEPs into the offered plan, as well as significant feedback from APL and, for the amendment, information from Dr. da Silva and the reevaluation.

32. The Parents were invited to each IEP team meeting and Ms. Parent was an active part of both IEP teams, consistent with WAC 392-172A-05000(3)(a).

33. In the present case, the Student advanced from grade to grade. The evidence does not show that the Student had to repeat any of the classes he had taken and passed in the District in order to succeed at APL.

34. However, the Student's math scores on the iReady assessments regularly placed him far below his grade level - at the second to fourth grade level when he was in eighth grade. These scores indicate persistent weakness in basic math skills. Similarly, at reevaluation, the Student's KTEA-3 testing placed him in the 1st percentile in math. Despite this, the Student's progress on his IEP goals reflect growth, such as his improving knowledge of multiplication tables. Further, his math goals expanded to include fractions and division, concepts not present in earlier iterations of his IEPs. The September IEP revision even included multi-step math problems dealing with order of operations.

35. A similar pattern plays out in all other areas of the Student's IEPs, which show the Student underperforming in written language, but his goals evolving by 2025 to expect the Student to perform on grade level writing assignments; reading was added as an area of SDI in June, 2025, and the goal focused on 9th-grade level reading; social behavior had evolved significantly, and the June 2025 IEP expected the Student to engage with peers socially when earlier goals were about simply remaining calm and not swearing at peers; etc.

36. It is therefore concluded that the June 2025 IEP and September 2025 IEP amendment were reasonably calculated to enable the Student to make appropriate progress at the times they were developed. It may not have been “potential-maximizing,” but it provided the Student with a basic floor of opportunity as is required for FAPE.

37. The IEP team’s offer to place the Student in 85% general education for the duration of the May 2025 IEP and its amendment, was a placement with a reasonably high probability of assisting the student to attain his annual goals. The goals in each section of each IEP are varied, designed to help the Student achieve meaningful educational gains, and do not appear to be repeated goals keeping the Student “sitting idle.” They incorporate additional information from APL, and the IEP amendment considers the new evaluation and Dr. da Silva’s letter and adds reading as an area for SDI. These goals were measurable, achievable, and do not appear to be unambitious.

38. The District has shown, by a preponderance of the evidence, that it offered appropriate SDI in the May 2025 IEP and the September 2025 IEP amendment.

The District’s IEPs Were Appropriate In Regard To LRE; Placement At APL Would Have Been Improper Under Rachel H.

39. The District’s IEPs thoroughly considered what the best placement for the Student would have been, and consistently offered LRE.

40. Under WAC 392-172A-02060(2), the educational placement for a student eligible for special education must be based upon: (a) the Student’s IEP, (b) the least restrictive environment appropriate for the Student, (c) the placement option(s) that provide a reasonably high probability of assisting the student to attain their annual goals, and (d) consideration of any potential harmful effect on the student or on the quality of the services they need.

41. School districts must ensure that special education students are served in the “least restrictive environment.” WAC 392-172A-02050. This means students should be served “(1) to the maximum extent appropriate in the general education environment with students who are nondisabled; and (2) Special classes, separate schooling or other removal of students eligible for special education from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.” *Id.*

42. The Ninth Circuit has developed a four-part test to determine whether a student's placement represents the least restrictive environment, as first set out in *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994).

“We consider: (1) the academic benefits of placement in a mainstream setting, with any supplementary aides and services that might be appropriate; (2) the non-academic benefits of mainstream placement, such as language and behavior models provided by non-disabled students; (3) the negative effects the student's presence may have on the teacher and other students; and (4) the cost of educating the student in a mainstream environment. . . . The first factor requires us to analyze the educational benefits available to the child in a regular classroom, supplemented with appropriate aids and services, as compared to the educational benefits of a special education classroom.”

Ms. S. ex rel. G v. Vashon Island Sch. Dist., 337 F.3d 1115, 1137 (9th Cir. 2003) (citation modified). “While every effort is to be made to place a student in the least restrictive environment, it must be the least restrictive environment which also meets the child’s IEP goals.” *City of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1468 (9th Cir. 1996).

43. With respect to 392-172A-02060(2)(b), the District complied with the least restrictive environment requirements for the December 2023 IEP, May 2025 IEP, and September 2025 IEP amendment. The placement offers, when examined through the requirements of *Rachel H.* the least restrictive environments each year. The IEP team’s offer placed the Student in general education in every class he could benefit from without being removed to special education. The IEP included extensive consideration of what classes would be accessible with accommodations, and each progressive IEP removed accommodations as they became unnecessary, while offering additional general education placement, denoting ongoing modification and consideration throughout the years. The IEP teams’ analysis included extensive consideration of what classes would be accessible with accommodations every year, and the May 2025 IEP significantly reduced the accommodations the Student was to receive in comparison to the December 2023 IEP, based on the data provided by APL, and the amendment did so further, based on information from Dr. da Silva.

44. Though there was much discussion of the Student’s anxiety regarding the District’s school bells, it is abundantly clear that his ability to navigate the classroom environment improved from year to year. The Student’s ability to interact with peers, bring appropriate questions to teachers when requiring feedback or assistance, and his increasing ability complete his work, all demonstrate that the District’s LRE considerations were having a positive impact on the Student. District staff’s

unanimous agreement that the Student did not lack the ability to make meaningful progress in the general education environment is quite compelling.

45. The non-educational benefits are not spelled out in the various IEPs, but it is clear the Student would have access to necessities, like social demonstration from non-disabled peers, in the general education classroom and would not in the special education classroom. The Student's negative impact on classes does not appear to have been a particularly large concern for the IEP team as, though disruptive behaviors are noted in the IEPs, it does not appear the Student was particularly disruptive to the classroom or demanded significantly more labor from the teachers. Finally, the cost of mainstreaming the Student is not a deciding factor in this case, nor one that was examined in the Student's IEPs, but it is worth noting that the cost of mainstreaming the Student would be significantly lower than placement at APL.

46. Thus, the District has shown that the educational placement during the 2023-2024 and 2024-2025 school years were appropriate in regard to LRE issues, and complied with *Rachel H.*

47. Placement at APL would be inconsistent with the four components of *Rachel H.* Though the Student has clearly benefitted from his time at APL, the evidence shows that APL is not the LRE for the Student. The educational benefits the Student would receive would not be severely decreased if he were to return to a general education setting. The Student would receive no non-academic benefit from placement at APL, such as behavior modeling by non-disabled peers as the Student would not have access to non-disabled peers in his 3-7 student classrooms.

48. On the other hand, it is clear the Student is able to make friends and develop socially in public school, as demonstrated by Ms. Parent's emails to Ms. Vesmanova. The Student was particularly heartbroken to be losing contact with the friends he made at the District. There is no evidence the Student would have a negative impact on the teachers and students in a general education setting. Finally, the cost of mainstreaming the Student would be significantly less than enrollment at APL. *There was no time in the Student's education where it would have been appropriate for the District to offer to place the Student at APL*, as it is not the least restrictive environment from which the Student could benefit.

49. Thus, had the District offered placement at APL, that offer of placement would have been improper. Though the Parent has every right to unilaterally enroll the Student at APL, it would have been improper for the District to offer APL as a placement.

The District Failed To Timely Evaluate The Student In 2025, However, This Violation Did Not Deny The Student FAPE

50. Though the Student's triennial reevaluation was due January, 2025, the Student had been unilaterally placed full time at APL, and Ms. Parent had not sought the assistance of the District in performing a triennial reevaluation.

51. WAC 392-172A-03015 controls reevaluation timelines, and states:

(1) A school district must ensure that a reevaluation of each student eligible for special education services is conducted in accordance with WAC 392-172A-03020 through 392-172A-03080 when:

(a) The school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation; or

(b) If the child's parent or teacher requests a reevaluation.

(2) A reevaluation conducted under subsection (1) of this section:

(a) May occur not more than once a year, unless the parent and the school district agree otherwise; and

(b) Must occur at least once every three years, unless the parent and the school district agree that a reevaluation is unnecessary.

(3) Reevaluations shall be completed within:

(a) Thirty-five school days after the date written consent for an evaluation has been provided to the school district by the parent;

(b) Thirty-five school days after the date the refusal of the parent was overridden through due process procedures or agreed to using mediation; or

(c) Such other time period as may be agreed to by the parent and documented by the school district, including specifying the reasons for extending the timeline.

52. In this case, Ms. Parent unilaterally placed the Student at APL in the summer of 2024. Ms. Parent informed the District of this unilateral placement via a June 20, 2024 email.

53. As discussed above, Under 34 CFR § 300.137(a), *Capistrano Unified Sch. Dist. and A.B. through K.B.*, the District was under no obligation to reevaluate the Student while Ms. Parent had unilaterally place him at APL, until such a time as Ms. Parent requested the District intervene. Thus, though the District did not evaluate the Student at the time he required a new triennial reevaluation in January 2025, the District did not violate the IDEA prior to Ms. Parent's contact in March 2025.

54. Ms. Parent requested an IEP meeting on March 3, 2025. In the following weeks, information was gathered by multiple parties in anticipation of an IEP meeting. At this time, Ms. Parent did not request a reevaluation. However, Ms. Parent's request for an IEP should have put the District on notice that a reevaluation was necessary.

55. The IEP team met on May 1, 2025 to create a new IEP for the Student. The Parents' consent for reevaluation was not given until May 2, 2025. The June 2025 reevaluation was conducted in June 2025, and the District had an evaluation meeting on August 17, 2025. The last day of school was June 18, 2025, which was 33 school days after the Parents consented to the reevaluation. The District returned to school on September 3, 2025. Thus, the District evaluated the Student within 35 school days of receiving consent from Ms. Parent, per the requirement under WAC 392-172A-03015. However, the District should have been on notice that the Student required a reevaluation at the time Ms. Parent requested an IEP, and delayed several months in offering and seeking consent for the Student's triennial reevaluation. Thus, the District failed to timely reevaluate the Student.

56. Per WAC 392-172A-05105(2), a denial of FAPE may only occur if the Student's right to FAPE is impeded, the Parent's opportunity to participate is significantly impeded, or the Student was denied educational benefit.

57. Though the District's June 2025 reevaluation was late, this did not deny the Student FAPE. Once the evaluation was completed, reading was added as an area of SDI, but no changes were made to the Student's placement, eligibility determination, or services, and the offer was not for a different educational program in the subsequent IEP. The only thing that changed was the addition of reading goals.

58. Further, Dr. da Silva's letter, which impacted the District's decision-making, did not come until long after the May 2025 IEP. There is no reason to believe the Student would have received a different outcome had the reevaluation taken place sooner, and there is evidence the reevaluation would have needed to be reconducted following Dr. da Silva's letter, as the new diagnosis of anxiety was only revealed to the District at this time. Thus, the District's delay caused the Student no violation of FAPE or deprivation of educational benefit. Further, the delay allowed Ms. Parent additional

participation, as much of it was caused by her gathering information from APL and Dr. da Silva, enhancing her ability to represent her child and participate in the Student's decision-making process rather than impeding it.

59. Further, the Student was receiving appropriate education in private school at the time of the reevaluation. There is no indication the Student was denied FAPE by the delayed reevaluation.

60. In summary, because the District knew or should have known the Student required a reevaluation as of March 3, 2025, and did not seek reevaluation until May, it failed to comply with the timelines of WAC 392-172A-03005, and failed to timely evaluate the Student. However, the District's reevaluation violation does not amount to more than a procedural violation under WAC 392-172A-05105(2), there is no denial of FAPE and the Parents are not entitled to a remedy as to this issue.

The District Did Not Discount Or Ignore Evidence From APL, Ms. Parent, or Dr. da Silva

61. "Consistent with WAC 392-172A-05000(3)(a), each school district must ensure that the parents of each student eligible for special education services are members of any group that makes decisions on the educational placement of the student." WAC 392-172A-03115.

62. The IDEA requires IEP and evaluation teams to consider information provided by parents, including privately obtained evaluations and reports, when making decisions regarding a student's eligibility, educational program, and the provision of FAPE. 20 U.S.C. § 1414(c)(1)(A); 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. § 300.502(c)(1); WAC 392-172A-05005(5).

63. An IEP team need not adopt the conclusions, recommendations, or placement preferences expressed by a parent or private evaluator simply because they were submitted for consideration. *Capistrano Unified Sch. Dist. v. S.W.*, 21 F.4th 1125, 1134 (9th Cir. 2021).

64. School districts are generally entitled to deference in deciding what programming is appropriate for a student. *J.L. v. Mercer Island School Dist.*, 575 F.3d 1025, 1031 n.5 (9th Cir. 2009). Parents do not have veto power over individual provisions or the right to dictate any particular educational program. *Ms. S. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9th Cir. 2003).

65. Here, the District did not discount or ignore evidence from the Student's psychologist, APL teachers, or Ms. Parent. In every IEP and reevaluation, the Parents have been invited and Ms. Parent has been a present, active participant. In the May

2025 IEP and subsequent amendment, the input from APL's teachers is given thorough consideration, including feedback from APL teachers in math and English. The May 2025 IEP incorporated feedback from APL staff wherever relevant, including the areas of math, English, OT, communication, and social/behavioral. The IEP team relied heavily on APL in creating the May 2025 IEP.

66. Likewise, the June 2025 reevaluation considered both APL documentation and Dr. da Silva's notes, and the IEP team adjusted goals based upon the new diagnosis of anxiety. The IEP team extensively reviewed APL's information regarding the Student's functioning and educational performance for the 2024-2025 school year. Finally, each document notes Ms. Parent's concerns and input. Though the IEP team did not offer the Student the placement that the Parents would have preferred, it is clear that the IEP team considered every piece of information shared with them. The Parents do not hold veto power over the educational program of the Student, and the District doing something other than what the Parents wanted, after reviewing and including APL's, Dr. da Silva's, and Ms. Parent's input, is not a violation of the IDEA or denial of FAPE.

67. Thus, the District has shown by a preponderance of the evidence that it did not discount or ignore evidence provided by APL staff, Ms. Parent, or Dr. da Silva in choosing the Student's educational placement, and thus did not violate the IDEA or deny the Student FAPE

Parental Participation and Child Find

68. The issue of parental participation was raised in regard to the September 2025 IEP Amendment during hearing but was not an issue raised prior to hearing. During hearing, the Parents raised claims that the Parents were denied parental participation because their preference for APL was ignored. Documents and testimony was not allowed on this issue, nor was the District given opportunity to fight this issue, except where facts overlapped with information relevant to issue ii in this case.

69. Similarly, in their closing argument, Parents cite to 34 C.F.R. § 300.131, arguing that the District failed in its child find obligations to find and evaluate the Student when the District did not perform a triennial reevaluation in January, 2025.

70. Parents have not provided any argument that these claims were tried by consent, nor that the District agreed to expand the scope of the due process hearing.

71. A party requesting a due process hearing may not raise issues during a due process hearing that were not raised in the complaint unless the other party agrees. WAC 392-172A-05100(3); 20 U.S.C. § 1415(f)(3)(B). "Administrative and judicial

review in IDEA cases is specifically limited to the issues raised in the due process complaint, unless the parties agree otherwise.” *L.C. v. Issaquah Sch. Dist.*, 2019 U.S. Dist. LEXIS 77834 *34-35 (W.D. Wash. May 8, 2019), *aff’d sub nom. Crofts v. Issaquah Sch. Dist. No. 411*, 2022 U.S. App. LEXIS 907 (9th Cir. 2022) (upholding ALJ’s refusal to address claims raised for first time in post-hearing brief where Parents cited no evidence that parties agreed to expand scope of due process hearing). This is consistent with Washington administrative law requiring that a notice of hearing include a statement of the issues (RCW 34.05.434) and that prehearing orders identify all issues and provide an opportunity to object. WAC 10-80-130.

72. An exception to this rule is when an issue was actually tried by the parties at an administrative hearing. *M.C. v. Antelope Valley Union High School Dist.*, 858 F.3d at 1196; *A.W. v. Tehachapi Unified Sch. Dist.*, 2019 U.S. Dist. LEXIS 37815 *15-16 (E.D. Cal. Mar. 7, 2019), *aff’d* 810 Fed. Appx. 588 (9th Cir. 2020); see also *Issaquah Sch. Dist.*, at *37 (holding that parents failed to show any of claims not considered by ALJ were tried by consent, contrasting with *Antelope Valley*: “[b]oth sides in *Antelope Valley* ‘presented extensive evidence,’ including witness testimony, regarding the omitted claim”).

73. In this case, the Parents have not shown that an exception applies, as discussed below. The issues to be addressed remain those set forth above starting at page 3.

74. In their closing, the Parents contend that the September 2025 IEP amendment was made without parental participation, and that the District failed in its Child Find requirements. The Parents’ Complaint did not raise any of these claims and the District did not agree to expand the issue statement. WAC 392-172A-05100(3). The Parents have not provided any argument as to why these claims should be considered despite not having been raised, as required by *Tehachapi Unified Sch. Dist.* Any testimony allowed in regard to either topic was only accepted where it overlapped with information relevant to issues ii and iii in this matter and were not taken to consider Parent’s new issues. Accordingly, these issues are not considered.

75. However, parental participation is an issue of analysis regarding if the District’s delay of the student’s triennial reevaluation, as discussed above. As such, the issue of parental participation was evaluated when relevant to the question of if delay of reevaluation denied the Student FAPE, as described above in Conclusions of Law 56-60.

CONCLUSION

76. The District has shown by a preponderance of the evidence that, though it failed to timely reevaluate the Student and thus violated the IDEA, it did not deny the Student

FAPE, as discussed in Conclusion of Law 56-60 above. Because the District's reevaluation violation does not amount to more than a procedural violation under WAC 392-172A-05105(2), there is no denial of FAPE and the Parents are not entitled to a remedy as to this issue. The District did not discount or ignore the input of Ms. Parent, Dr. da Silva, or APL staff in developing the May 2025 IEP, June 2025 reevaluation, or September 2025 IEP amendment. The District did not offer inappropriate placement to the Student in 2023-2024, or 2024-2025, school years.

77. The Student will receive FAPE as required by the IDEA if he is educated in the general education setting at the District. Though this may not be the finest educational opportunity the Student could receive, it meets the requirements set out by law. Ms. Parent has every right to enroll the Student at APL, but the District is not required to pay for such an enrollment.

ORDER

The District violated the procedural requirements of the IDEA when it failed to timely reevaluate the Student but did not deny the Student FAPE as set forth in Conclusion of Law 56-60. To all other issues for hearing, the District has not violated the IDEA or denied the Student FAPE.

The Parents' request for relief is DENIED.

SERVED on the date of mailing.



Niles McDonald
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 August 25, 2026, at Spokane Valley, Washington.

Lan Le

Representative
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cc: Administrative Resource Services, OSPI