

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Seattle School District

Docket No. 01-2026-OSPI-02818

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

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2026-SE-0012

Administrative Law Judge (ALJ) Jacqueline Becker held a due process hearing on May 4 and 5, 2026, via videoconference. The Parent of the Student whose education is at issue¹ appeared and was represented by Mary Griffin and Lucy Rollins, attorneys at law. The Seattle School District (District) was represented by Susan Winkelman, attorney at law. Also present was Jennifer Barabe-Snyder, District Northeast Supervisor for Special Education. Observing the due process hearing but not participating were ALJ Christopher Westby, as well as attorneys Kaya McRuer and Hannah Rosenberger of Northwest Justice Project.

STATEMENT OF THE CASE

Procedural History

The District filed a due process hearing request (Complaint) on January 27, 2026. The matter was assigned to ALJ Pamela Meotti. Judge Meotti held prehearing conferences on February 11, 2026, and on March 10, 2026. The due process hearing was set for May 4 and 5, 2026, by order dated March 11, 2026. The matter was reassigned to ALJ Becker on April 20, 2026. The due process hearing was held as scheduled. Post-hearing briefs were timely filed by the parties on June 5, 2026.

Due Date for Written Decision

The written decision in this case is due on July 5, 2026.

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

EVIDENCE RELIED UPON

Exhibits Admitted:

District's Exhibits: D1 – D14

Parents' Exhibits: P1 - P4, P5 pages 1-18 only, P10

Witnesses Heard:

Student's Mother (Ms. Parent)

Annemarie Hutson – District school psychologist

Natalie White – District speech language pathologist

Kelly Silver – District occupational therapist

Lucy Cooley – District general education teacher

ISSUE

The sole issue for the due process hearing was whether the District's October 2025 evaluation of the Student was appropriate and, if not, whether the Parent is entitled to an independent educational evaluation (IEE) at public expense.

FINDINGS OF FACT

Background

1. The Student is currently nine years old. He is in the third grade and attended Olympic View Elementary School in the District at the time relevant to this proceeding. D8 p6.² He was taken out of school in November 2025 and has not returned. Tr. 218. The Student was unenrolled from the District on January 20, 2026, due to 20 days of absence. D10. He was re-enrolled on March 16, 2026. *Id.*

2. The Student first qualified for special education services at age five when he was in preschool. D8 p.6. An Individualized Education Program (IEP) was written for him by the District in April 2022. The Student only attended preschool for about six weeks. He

² Exhibits are cited by party ("P" for Parent, "D" for District), exhibit number, and page number. For example, "D1 p.5" is a citation to District exhibit 1 at page 5. The hearing transcript is cited as "Tr." and page number. For example, "Tr. 50" is a citation to the transcript at page 50.

did not enroll in kindergarten in the fall of 2022 and was homeschooled until he enrolled in third grade in the fall of 2025. D8 pp. 6, 11-12; tr. 114.

3. On September 3, 2025, Ms. Parent emailed several staff members at the District, including the Student's assigned general education teacher, Lucy Cooley,³ and his assigned special education teacher, Erin Smith. P1. The email explained that the Student had been homeschooled up until now, and the upcoming school year would be his first experience in a school setting. Ms. Parent described the Student as having issues with emotional regulation which can cause him to "shut down," use inappropriate language, and knock over objects. Ms. Parent stated that the Student cannot read, has a limited attention span, and is working on counting and penmanship. *Id.*

4. Ms. Parent also stated in the September 3, 2025 email that the Student has executive function disorder and ARFID (Avoidant/Restrictive Food Intake Disorder), and would be bringing his own lunch with "safe foods" to school. P1; D8 p.11. He is under a physician's care for this disorder. Tr. 148. Ms. Parent expressed nervousness about the Student starting school in part because he had a negative experience in pre-K that caused him to refuse to attend kindergarten. Ms. Parent asked that the Student have a part-time schedule so she could pick him up early and support him at home. P1.

5. On September 4, 2025, District school psychologist Annemarie Hutson emailed Ms. Parent to inform her that the District needed to complete the Student's triennial reevaluation because his initial special education evaluation had expired. D1 p.1. Ms. Hutson sent Ms. Parent a consent form and a questionnaire to start the evaluation process. *Id.*

6. Ms. Hutson has an undergraduate degree from Washington State University and a graduate degree from Seattle University. She is a nationally certified school psychologist. Tr. 21-22. She has been a school psychologist for 20 years. *Id.* at 22-23. Ms. Hutson has experience evaluating children with autism and children who have challenges with executive function and emotional regulation. *Id.* at 23.

7. The consent form sent to Ms. Parent by Ms. Hutson lists numerous areas of potential disability that can be addressed in an evaluation, and has boxes next to each area that can be checked to indicate that the area will be evaluated. Above the boxes, the form states, "The re-evaluation will address the following areas." D1 p.2. Nowhere does the form state that a parent can check additional boxes.

³ Ms. Cooley has a master's degree in education. She has endorsements in special education, business, and English language learners. She has been a teacher since 2011 and has taught 3rd, 4th and 5th grade general education. Tr. 206-207.

8. Ms. Hutson had checked seven boxes on the form to indicate that the Student's reevaluation would address the following areas: math, motor, review of existing data, written language, communication, reading, and social/behavior. D1 p.2. "Adaptive/Life Skills" and "Medical-Physical" are listed as options that could be evaluated, but the boxes next to those areas were not checked, so they were not indicated as areas that would be evaluated. *Id.* Ms. Parent was not aware that she could check additional boxes because she thought the District was "just evaluating what had already been evaluated." Tr. 181-82.

9. "Adaptive" refers to skills that allow someone to navigate their environment. Such skills include getting from location A to location B, using the bathroom, and communicating to get needs met (such as communicating hunger). Tr. 41. Ms. Parent is not familiar with the term "adaptive/life skills", and it was not explained to her by anyone from the District. Tr. 147.

10. The consent form goes on to state, on a page called "Parental Response":

I understand that I have the opportunity to participate in the consideration of the areas to be assessed. I would suggest the following areas of need be considered in assessing my child ...

The form then contains four blank lines on which parents can suggest areas to be assessed. D1 p.4.

11. Ms. Parent completed the consent paperwork and returned it to the school. On the Parental Response page, she wrote the following:

1. Speech [sic], Better Communication
2. Reading, Being able to know the Alphabet in order
3. With Autism he also has ARFID, And EFD (executive Function Disorder)
4. Emotional Regulation.

D2 p.3. Ms. Parent's understanding of "executive functioning" is that it is "the ability to do things by himself that every day people are able to do." Tr. 147.

12. On the one-page Parent Questionnaire that Ms. Parent was asked to complete, she checked the "no" box when answering the question, "Have there been any changes to the student's physical condition within the last three years?" D3. Ms. Parent checked the "yes" box when asked whether the Student is currently taking medication, and added, "He takes clonidine for insomnia." In response to the question, "Are there any social and/or emotional concerns which you feel may be affecting the student's learning?" Ms. Parent responded, "Not sure at this moment." *Id.*

13. On the Parent Questionnaire in response to the question “What are your student’s present educational needs and limitations?” Ms. Parent responded, “Reading and letter recognition, writing skills, math. He is NOT at his grade level. Social skills.” D3. In response to the question, “In what areas of learning has the student made the most progress?” Ms. Parent responded, “He is really good at patterns, finding pictures, and problem solving.” *Id.*

14. In response to the final question, “Is there any other pertinent information you wish to add?” Ms. Parent stated: “I know at home he can get agitated, use bad language and throw and destroy things. I don’t know if this is an issue at school.” D3.

15. Ms. Parent expected that someone from the District would contact her to discuss her answers, or there would be discussion in a meeting. Tr. 182.

16. Ms. Hutson never met Ms. Parent and never spoke with her on the phone. Tr. 43.

17. On September 22, 2025, Ms. Parent emailed Ms. Cooley and Andrew Bean (the school principal) and stated the Student was experiencing anxiety and school resistance. She requested that he be able to ask to go home at any point during the school day if he felt the need. P2; P3.

18. On September 30, 2025, District occupational therapist (OT) Kelly Silver⁴ emailed Ms. Parent and requested that she complete a form regarding the Student’s sensory needs. D4.

19. Ms. Silver has an undergraduate degree in child study and human development, and a master’s degree in occupational therapy. Tr. 93-94. She is a licensed OT. *Id.*

20. On October 1, 2025, District speech language pathologist (SLP) Natalie White sent a form home with the Student for the Parent to fill out. D5. The input provided by the Parent on this form was not entered into evidence at the due process hearing.

21. Ms. White has bachelor’s and master’s degrees in speech language pathology. Tr. 162. She has a certificate of clinical competence in speech language pathology and a teaching license. *Id.* She has been an SLP for 23 years, with 15 of them being in a

⁴ In exhibit D4, the occupational therapist appears to use the names Kelly Souza and Kelly Silver in email addresses. No evidence was presented as to the reason for this, but the ALJ presumes Ms. Souza/Silver changed her name around this time. This discrepancy does not affect the reliability of the exhibit.

school setting. *Id.* at 162-63. Ms. White has experience evaluating students with autism, and with executive functioning and emotional regulation challenges. *Id.* at 163.

22. On October 22, 2025, Ms. Hutson sent a “Special Education Evaluation – Teacher Feedback Form” to the Student’s special education teacher, Erin Smith.⁵ D6 pp.1-4. Later that same day, Ms. Hutson sent another email to Ms. Smith and asked her to complete a social skills assessment of the Student which was accessible by a link in the email. *Id.* at 5.

23. The input provided by Ms. Smith on the Special Education Evaluation Teacher Feedback Form included her assessment that the Student should not be exited from special education services, and that no areas of his specially designed instruction (SDI) should be dropped. In response to the question, “Are there and areas of SDI that should be added?” Ms. Smith replied, “Precognitive skills → reading, writing, math, Adaptive/Life possibly.” D6 p.7. Ms. Hutson recalls speaking with Ms. Smith about her comments but does not recall the specifics of what they discussed. Tr. 44.

24. Ms. Smith’s input also noted that the Student had started to grow in his ability to follow a school routine, and that he attempts to engage. Ms. Smith noted that the Student struggles with insomnia and falls asleep when he gets overwhelmed at school. She noted that the Student’s academic skills are far below third grade level, and he knows some letter names but no letter sounds. Ms. Smith further stated that, when the Student becomes dysregulated, he “shuts down” by burying his head or falling asleep, and he also throws things, wanders around, yells, and occasionally slaps or kicks adults who get too close. D6 p.7

25. Ms. Smith also stated that the Student was attending school on a modified schedule, which was 7:40 AM to 12:10 PM at the time. A full day schedule had been tried, but the Student was resistant and would fall asleep or cry to go home, so they went to an earlier pick-up time. D6 p.8. Ms. Hutson was aware of the Student’s modified schedule. Tr. 67-68.

26. Ms. Smith also noted that the Student was far below standard in all reading, math, and writing skills, and almost all study/organization skills. He was far below standard in his ability to pay attention to the teacher, actively participate in class, sustain focus, understand directions, complete tasks within time limits, complete and

⁵ Ms. Smith did not testify at the due process hearing and there is no evidence regarding her education or qualifications.

turn in homework, and manage long term assignments. Much of this was dependent on whether the task he was asked to do was preferred or not. D6 p.9.

27. Ms. Smith also noted that the Student was far below standard in most social/behavioral skills, including regulating emotion, managing frustration, solving social problems with peers, responding appropriately to adult redirection, handling transitions, and picking up on the social cues of others. The Student also had a significant need for multiple types of support, including assistive technology, breaking tasks into multiple steps, extended time, modified workload, a study carrel for limited distraction, small group instruction, and individual review/repetition of instruction. D6 pp. 9-10.

General Background Assessment

28. An evaluation summary report was prepared by Ms. Hutson after the Student's October 2025 reevaluation was completed (hereinafter referred to as "evaluation report"). It is dated October 27, 2025. D8 p6. In the "General Background – General Education Teacher Input" section of the evaluation report, it states that Ms. Cooley, the Student's third grade general education teacher, provided input on the Student's math, writing, and handwriting skills. *Id.* at 10. At the due process hearing, Ms. Cooley pointed out that it was an error to attribute this input to her since she did not teach the Student math, writing or handwriting and did not provide input on those skills. Tr. 216.

29. The General Background section of the evaluation report notes the only Parent input as the one-page questionnaire that Ms. Parent completed on September 8, 2025. D8 p.10. The Parent was not asked by Ms. Hutson to complete any surveys that assessed the Student's behavior or social skills. Tr. 182.

30. The General Background section also notes that the Student has been attending school on a modified schedule. D8 p.10. The report notes that it is "hit or miss" as to whether the Student is willing to go to science class in his general education classroom after recess. It further states, "We tried a full day week, but [Student] was very resistant to the full day schedule (falling asleep, crying to go home) and refused to come to school, so we went back to the 12:10 pick up this week [week of October 20, 2025]." *Id.*

31. In the "Measures of Academic Progress" (MAP) section of the evaluation report, it is noted that the Student is in the 8th percentile for reading, and in the 7th percentile for cognitive development which is deemed "low." D8 pp. 10-11.

32. Ms. Hutson performed all areas of the evaluation except communication and motor. Tr. 72.

Communication Assessment

33. The Communication portion of the evaluation was performed by Ms. White. The evaluation report notes that the Student is monolingual and speaks English. D8 p.11.

34. Ms. White used clinical observation, input from a conversation with Ms. Parent, review of existing data, and one articulation scale to assess the Student. D8 pp. 12-14.; tr. 165. Ms. White determined the Student to have a significant overbite that affects his ability to articulate certain sounds which distorts his speech and makes it difficult for listeners to understand him. *Id.* at 12. Ms. White also observed the Student exhibit speech patterns that are usually outgrown by age three to five, such as “cluster reduction” in which a child might say “tuck” instead of “truck” or “boo” instead of “blue.” *Id.*

35. Ms. White used the Arizona Articulation and Phonology Scale, Fourth Edition (AAPS-4) to formally assess the Student’s word articulation. D8 p.13. This is a standardized assessment that Ms. White has experience using. Tr. 166. The Student scored in the 0.1 percentile on this assessment. D8 p.13. Ms. White concluded that the Student has a significant articulation delay that impacts his speech intelligibility in the school setting. *Id.*

36. Ms. White was not able to assess the Student’s receptive language skills because his behavior impacted his ability to participate in structured testing. D8 p.13. However, she observed the Student’s spontaneous speech during play and conversations, and assessed his vocabulary, grammar, narrative skills, pragmatic language use, and phonological errors. Ms. White determined that the Student’s expressive language skills are at approximately a 3.5 - 4.5 year age level, and thereby determined that his receptive and expressive language abilities are below the expected range for his age. *Id.*

37. Ms. White also assessed the Student’s voice and fluency, and noted no concerns in these areas. D8 pp.13-14.

38. Based on her assessments, Ms. White concluded the Student has communication delays that negatively affect his ability to communicate, his ability to process and retain curriculum that is presented verbally, his ability to interact with others, and his ability to problem solve when conflicts arise. She recommended that he receive speech therapy services to improve his language skills. D8 p. 14.

Academic Assessment

39. Ms. Hutson administered the Kaufman Test of Educational Achievement, Third Edition (KTEA-3) to the Student in order to assess his math, reading, and writing skills. D8 p.14. The KTEA-3 was administered to the Student in a quiet 1:1 environment and in accordance with the instructions from the producer of the test. Tr. 30. The Student achieved a very low score (second percentile) on the math concepts and application subtest, and a low score (fifth percentile) on the math computation subtest. Based on this, Ms. Hutson determined that the Student is well below his same-aged peers in math skills, and she recommended SDI in this area. D8 pp. 14-15.

40. When his reading was assessed, the Student achieved very low scores on letter and word recognition, as well as reading comprehension. Both scores were in the “<.1%” percentile ranking. D8 p. 22. Based on this, as well as the Student’s eighth percentile ranking on the MAP assessment, Ms. Hutson determined that the Student is well below his same-aged peers in reading skills, and she recommended SDI in this area. *Id.*

41. When his written language was assessed, the Student achieved a very low score in the “<.1%” percentile ranking on the written expression subtest. D8 p.23. He was unable to write his name, to write dictated words, or to insert punctuation at the end of sentences. Ms. Hutson determined that the Student is well below his same-aged peers in writing skills, and she recommended SDI in this area. *Id.* at 23-24.

Medical-Physical Assessment

42. Medical/physical was not indicated as an area to be evaluated on the consent notification sent to Ms. Parent. Ms. Hutson stated at the due process hearing that this was an error on her part. Tr. 82. The medical-physical findings are based on a review of the Student’s previous evaluation. *Id.* at 31. They are dated December 1, 2019, in the evaluation report and provide a medical history only up to that time. D8 p15. The medical history states that the Student was toilet trained at age 36-42 months. *Id.* This is repeated in the motor assessment. D8 p.27.

43. Ms. Hutson did not ask Ms. Parent for additional or updated medical/physical information about the Student. Ms. Hutson testified that if such information had been needed for the evaluation, the school nurse would have communicated with the family. Tr. 48-49. Ms. Parent has never spoken to the school nurse. *Id.* at 147.

44. Ms. Parent thinks the medical-physical section is incomplete because it does not mention that the Student needs help with toileting hygiene and hand washing. Tr. 117.

45. Ms. Hutson does not recall if she determined why the Student was taking the clonidine that Ms. Parent reported he was taking, and the medication is not mentioned in this section of the report. Tr. 50; D8 pp. 15-16. The Student's ARFID is a medical/physical condition according to Ms. Hutson, but it is not mentioned in this section of the evaluation report. *Id.* at 83. Rather, the report states that the Student "has no known allergies/sensitivities to any medications or foods." D8 p.16.

Motor Assessment

46. District OT Kelly Silver conducted the Student's motor assessment. Ms. Silver gathered information for this assessment through a Parent survey and observation of the Student. Ms. Silver worked at times in the Student's Focus classroom and was able to observe him there. Tr. 95-97. She reported that the Student's communication to her was "mostly unintelligible." D8 p.17; tr. 96.

47. Parent input into this assessment included a sensory processing measure (SPM) that provides norm-referenced standard scores to measure problems in social participation, planning and ideas (praxis), and five sensory systems: visual, auditory, tactile, body awareness (proprioceptive), and balance and motion (vestibular). The measure is sensitive to important sensory integration vulnerabilities including over-responsiveness, under-responsiveness, sensory seeking input, and perceptual problems. D8 p.20.

48. Ms. Parent's responses on this measure provided information as to how the Student behaves when he is overwhelmed, as well as his struggles with reading, penmanship, and attention span. D8 p.17; tr. 102. This measure indicated that the Student has moderate to severe difficulties in all areas assessed by Ms. Parent, including vision, touch, hearing, taste, balance, body awareness, planning and ideas, and social participation. D8 pp. 20-21. This measure showed that the Student has sensory processing differences in all sensory areas that are likely to "greatly impact" his ability to participate in school. *Id.*; tr. 104.

49. Ms. Silver administered the Beery-Buktenica Development Test of Visual-Motor Integration (VMI) to the Student. This test measures visual perception, motor coordination, and the integration of these two skills. D8 p.18. The Student's score was in the average range on the VMI. This suggested to Ms. Silver that the Student has adequate fine motor skills to produce legible written work, but he has not yet learned to do so. *Id.* at 19. The Student's score also suggested that he has the visual-motor integration skills to perform self-care tasks such as opening containers, fastening zippers, and feeding himself. Tr. 99-100.

50. According to Ms. Silver, self-care tasks, academic work, organization, and social participation can be viewed as “occupations” that can be a focus of OT. D8 p17. Self-care skills are commonly referred to as adaptive skills. Tr. 106. In the self-care skills portion of this assessment, Ms. Silver cited a teacher report that the Student is able to manage his jacket, zippers, shoes, and toileting independently. D8 p. 18. He is also able to feed himself and navigate the school environment (such as doors, crowded hallways, stairs, lunch line, etc.). *Id.* Ms. Silver observed that the Student has stained teeth, dirty fingernails, and sometimes appears unbathed. She attributed this to sensory avoidance of hygiene tasks. *Id.*; tr. 106. However, it could also have been behavior-related or a result of lack of adaptive skills. Tr. 106-07, 109.

51. Ms. Silver observed the Student in the library and gathered teacher input to assess the Student’s sensory processing. She noted that he reacts appropriately to sensory input most of the time, and follows motor direction such as “close your pencil box.” D8 p.19. However, the Student was not able to “attend to the classroom flow” without disrupting the learning of himself and/or others. *Id.*

52. Ms. Silver testified that she would have liked to gather more information about the Student through other segments of the VMI, but his task tolerance was very low and he could only perform assessments in small chunks. Tr. 101. Ms. Silver concluded that the Student was experiencing an adverse educational impact due to issues with functional fine motor skills and sensory processing that impede his ability to write and remain regulated at school. D8 p.21. She recommended that the Student receive OT as a related service. *Id.*

Social/Behavioral Assessment

53. A social/behavior assessment evaluates how a child functions in a classroom, whether they engage with peers and adults in a way that supports their needs, and whether they are demonstrating behavior expected of a child their age. Tr. 33. Ms. Hutson typically evaluates in this area by using a rating scale which is scored based on a nationally normed sample and standardized rating scale. *Id.* at 34. This helps the psychologist substantiate what is being observed by staff members in the classroom. *Id.* at 35.

54. Ms. Hutson gave the Social Responsiveness Scale, Second Edition (SRS-2) to Ms. Smith to complete. This scale measures social awareness, social cognition, social communication, social motivation, and restricted/repetitive behaviors. D8 pp. 22-23. It addresses whether a child has the skills needed to engage with their environment, how aware they are of themselves and the emotions and feelings of others, how well they communicate with peers and adults, and whether they care about engaging with

others. Tr. 53. Ms. Hutson typically gives an SRS-2 to a student's family, as well. She does not recall if she gave it to Ms. Parent. Tr. 52. Ms. Parent did not receive any request to complete a rating scale or provide additional information to Ms. Hutson, and feels she should have been asked to provide more information about the Student's behavior. Tr. 122, 155.

55. Ms. Smith completed the SRS-2, but it could not be scored because the District "ran out of scoring usages prior to scoring." D8 p.22. This means the District did not have an active subscription that allowed Ms. Hutson to score the scale. Tr. 33-34. When asked at the due process hearing why the District ran out of scoring usages for the SRS-2, Ms. Hutson stated that there is a set number of scoring usages and the District may have had budgetary constraints and/or needed too many scales scored. Tr. 62.

56. Consequently, Ms. Hutson relied on qualitative data to determine if the Student was performing in a way that would suggest he needed SDI, but she was not able to corroborate the qualitative information with a standardized measure.⁶ Tr. 35. Ms. Hutson considered asking Ms. Smith to complete a different assessment scale, but she decided that she had enough data to recommend that the Student receive SDI in the area of social/behavior and did not need additional quantitative data. Tr. 60.

57. Ms. Hutson included results from the Student's previous assessment conducted in March 2022, when he was in preschool, in the October 2025 evaluation. D8 p.22; tr. 36. She also relied on teacher feedback, teacher interviews, and observation of the Student. D8 p.23; tr. 36. Feedback and observation indicated that the Student would place his head on the table and slam his fist when he did not know an answer. He appeared to be very tired "and struggles with insomnia which can cause him to have a difficult time engaging at school." He also struggled with establishing a school routine. He was noted to be "very independent and would like to be entirely self-directed." D8 p.23.

58. Ms. Hutson did not observe the Student in class at any time. Typically she would perform such an observation, but did not do so for the Student because his attendance was unpredictable. Tr. 64.

59. Ms. Hutson opined at the due process hearing that she obtained enough qualitative data about the Student to determine that he needed SDI in the area of social/behavior. Tr. 36. Based on this data, she recommended continued SDI in the area of social/behavior. D8 p.23.

⁶ Qualitative data is not a standardized measure. It is obtained from observation. Tr. 27-28.

Adaptive/Life Skill Were Not Assessed

60. The Student was not assessed in the area of adaptive/life skills, although some assessment of self-care skills was done in the motor assessment. Learning a routine, such as a school day routine, is an adaptive skill. Tr. 66. Ms. Hutson was aware that there were challenges establishing a school day routine for the Student and that he was only able to attend school for partial days. *Id.* at 68; D8 p.10. Toileting hygiene, hand washing and putting on clothing are adaptive skills. Tr. 73. At the time of the evaluation, Ms. Hutson did not have any information indicating that toileting or handwashing were issues of concern regarding the Student. *Id.* at 86.

61. Ms. Hutson did not assess the Student in adaptive/life skills because he did not qualify for SDI in that area in 2022, and third grade was his first time attending school. Ms. Hutson stated, “We had to initiate the reevaluation immediately, so trying to determine anything beyond what he had initially qualified for was a tremendous challenge because we had very limited information at that time.” Tr. 75-76,

62. The Student will not brush his teeth or his hair by himself. He refuses to bathe and cannot wash his own hair. Tr. 153. Ms. Parent did not inform anyone at the District about these problems. *Id.* at 184. Ms. Cooley noticed that the Student had poor hygiene but she does not recall if she mentioned this to anyone. *Id.* at 210. She would typically provide a lesson on handwashing in such a situation, but she did not do so for the Student because “he was supported by multiple educators and so there are other educators that can provide that focused support.” *Id.* at 219.

The Post-Assessment Period

63. The finalized evaluation report concluded that the Student meets special education eligibility criteria in the category of autism. D8 p.6. The report recommended that the Student receive SDI in all academic areas (math, reading, and written language) as well as in social/behavior, and that he receive related services in communication and OT. *Id.* at 7. The SDI recommended in social/behavior was suggested to focus on regulation strategies and “how to be a student.” *Id.* at 8.

64. On October 27, 2025, Ms. Hutson emailed Ms. Parent to inform her that a “reevaluation results meeting” had been scheduled for that afternoon at 2:35 p.m. A draft of the evaluation report, which was 18 pages long, was attached to the email. D7. Ms. Hutson’s email stated, “We will be reviewing this [draft] in greater detail [at the meeting] this afternoon.” *Id.*

65. Ms. Parent responded that she would attend the meeting. Tr. 174. However, Ms. Parent did not attend the reevaluation meeting and the evaluation team proceeded without her. D13; tr.72, 175, 186. There is no evidence in the record that Ms. Hutson or anyone else on the evaluation team attempted to call Ms. Parent to remind her of the meeting or see if she needed to reschedule it. Rather, it is Ms. Hutson's standard practice to proceed with an evaluation meeting when a parent does not show up. Tr. 86-87. According to Ms. Hutson, parents can ask questions later about what occurred and can get more information at the next IEP meeting. *Id.*; D13.

66. The evaluation team found the Student eligible for special education and an IEP meeting was held on November 19, 2025. D9 p.4. Ms. Parent attended that meeting. Tr. 176-77. She had been informed that the evaluation report would be discussed at the meeting and it was briefly discussed. *Id.* at 181.

67. The IEP team developed an IEP for the Student that provides SDI in math, reading, written language, and social/behavior, as well as related services in OT and speech-language pathology. D9 p.20. The IEP also provides numerous accommodations and modifications. *Id.* at 17-19.

68. Ms. Parent requested an IEE by email dated January 16, 2026, in which she set forth numerous areas of disagreement with the District's October 2025 reevaluation. D12.

69. The District filed its due process complaint on January 27, 2026.

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

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

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

The IDEA and FAPE

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

4. In *Rowley*, the U.S. Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the IDEA. The first question is whether the state complied with the procedures set forth in the IDEA. The second question is whether the IEP developed under these procedures is reasonably calculated to enable the child to receive educational benefits. “If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.” *Rowley*, 458 U.S. at 206-207.

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).

Independent Educational Evaluations (IEEs)

6. Parents have a right to obtain an IEE if they disagree with a school district’s evaluation of their child, under certain circumstances. WAC 392-172A-05005; 34 CFR 300.502(a)(1). An IEE is an evaluation conducted by a qualified examiner who is not employed by the school district, at district expense. WAC 392-172A-05005(1)(c)(i); 34 CFR 300.502(b). If a parent requests an IEE, a district must either ensure that an IEE is provided at no cost to the parent without unnecessary delay, or initiate a due process hearing within 15 calendar days to show that the district’s evaluation is appropriate. WAC 392-172A-05005(2)(c).

7. If the district initiates a due process hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to obtain an IEE but not at public expense. WAC 392-172A-05005(3).

8. An IEP team's decision on whether a student is eligible for special education is not relevant to the question of whether the school district's evaluation was appropriate. *A.S. v. Shoreline Sch. Dist.*, 2025 U.S. Dist. LEXIS 121802 *6 (W.D. Wash. 2025).

Evaluations

9. When conducting an evaluation, the District is required to follow the requirements set forth in WAC 392-172A-03020, which provides:

Evaluation procedures.

(1) The school district must provide prior written notice to the parents of a student, in accordance with WAC 392-172A-05010, that describes any evaluation procedures the district proposes to conduct.

(2) In conducting the evaluation, the group of qualified professionals selected by the school district must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining:

(i) Whether the student is eligible for special education as defined in WAC 392-172A-01175; and

(ii) The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for a preschool child, to participate in appropriate activities;

(b) Not use any single measure or assessment as the sole criterion for determining whether a student's eligibility [sic] for special education services and for determining an appropriate educational program for the student; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(3) Each school district must ensure that:

(a) Assessments and other evaluation materials used to assess a student:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable. If properly validated tests are unavailable, each member of the group shall use professional judgment to determine eligibility based on other evidence of the existence of a disability and need for special education. Use of professional judgment shall be documented in the evaluation report;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(d) If necessary, as part of a complete assessment, the school district obtains a medical statement or assessment indicating whether there are any other factors that may be affecting the student's educational performance.

(e) The student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(f) Assessments of students eligible for special education who transfer from one school district to another school district in the same school year are coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(g) In evaluating each student to determine eligibility or continued eligibility for special education service, the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified.

(h) Assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student.

10. The District is also required to follow the requirements for evaluations set forth in WAC 392-172A-03025, which provides:

Review of existing data for evaluations and reevaluations.

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

(1) Review existing evaluation data on the student, including:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based, local, or state assessments, and classroom-based observations; and

(c) Observations by teachers and related services providers.

(2)(a) On the basis of that review, and input from the student's parents, identify what additional data, if any, are needed to determine:

(i) Whether the student is eligible for special education services, and what special education and related services the student needs; or

(ii) In case of a reevaluation, whether the student continues to meet eligibility, and whether the educational needs of the student including any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum; and

(b) The present levels of academic achievement and related developmental needs of the student.

(3) The group described in this section may conduct its review without a meeting.

(4) The school district must administer such assessments and other evaluation measures as may be needed to produce the data identified in subsection (1) of this section.

(5)(a) If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the student continues to be a student eligible for special education services, and to determine the student's educational needs, the school district must notify the student's parents of:

(i) That determination and the reasons for the determination; and

(ii) The right of the parents to request an assessment to determine whether the student continues to be a student eligible for special education, and to determine the student's educational needs.

(b) The school district is not required to conduct the assessment described in this subsection (5) unless requested to do so by the student's parents.

See 34 CFR 300.305.

11. The District is also required to follow the requirements for evaluation reports set forth in WAC 392-172A-03035, which provides:

Evaluation report.

(1) The evaluation report shall be sufficient in scope to develop an IEP, and at a minimum, must include:

- a. A statement of whether the student has a disability that meets the eligibility criteria in this chapter;
- b. A discussion of the assessments and review of data that supports the conclusion regarding eligibility including additional information required under WAC 392-172A-03080 for students with specific learning disabilities;
- c. How the student's disability affects the student's involvement and progress in the general education curriculum or for preschool children, in appropriate activities;
- d. The recommended special education and related services needed by the student;
- e. Other information, as determined through the evaluation process and parental input, needed to develop an IEP;
- f. The date and signature of each professional member of the group certifying that the evaluation report represents his or her conclusion. If the evaluation report does not reflect his or her conclusion, the professional member of the group must include a separate statement representing his or her conclusions

(2) Individuals contributing to the report must document the results of their individual assessments or observations.

12. At the time relevant to this action, a school district had 35 school days to complete a reevaluation after it received written consent to evaluate from the parent, unless extended by agreement of the school district and the parent. WAC 392-172A-03015(3).⁷

⁷ This WAC provision was amended effective June 11, 2026.

The District Has Not Met Its Burden to Demonstrate that the October 2025 Reevaluation of the Student Is Appropriate

13. Numerous WAC provisions make clear that parental input is essential to an appropriate evaluation. It is incumbent upon the District to use a variety of tools and strategies to gather relevant information about a student, *including information provided by the Parent*. WAC 392-172A-03020(2)(a)(emphasis added). Similarly, review of existing data must include information provided by the parents. WAC 392-172A-03025(1)(a). It is further incumbent on the District to assure that the evaluation is sufficiently comprehensive to identify all of the Student's special education and related service needs. WAC 392-172A-03020(3)(g).

14. In the present case, the school psychologist never met or spoke with Ms. Parent. This was a problematic oversight, particularly given Ms. Hutson's admitted awareness that this was the Student's first time attending school, and the District "had very limited information at the time." The Parent was not given notice that medical-physical would be an area of assessment in the evaluation. No inquiry was made about the Student's ARFID, even though it was a medical condition clearly identified by the Parent for which the Student was under a physician's care. No recent medical information was obtained and the medical information in the evaluation report was almost six years old.

15. Ms. Cooley and Ms. Silver both observed the Student to have stained teeth and dirty fingernails, and to sometimes appear unbathed. If the psychologist had spoken with Ms. Parent about these observations, Ms. Parent could have confirmed that the Student resists bathing, washing his hands and brushing his teeth, and also needs help with toileting hygiene. However, these concerns were not discussed and the evaluation did not determine whether they stem from sensory avoidance, behavior issues, and/or lack of adaptive skills.

16. Ms. Parent was not asked to provide any input into the social/behavior portion of the evaluation even though she identified "social skills" as a present need or limitation on the one-page parent questionnaire. She also identified the Student's foul language and destructive behavior at home as concerns on the questionnaire. Failure to seek parental input for this assessment was a significant oversight for several reasons. First, Ms. Hutson's typical practice is to give a student's family a social responsiveness scale to complete, but no such scale was given to Ms. Parent. Second, when Ms. Smith's SRS-2 scale could not be scored, that left Ms. Hutson to rely solely on qualitative data. Given her admission that she had "very limited information," seeking even qualitative data from Ms. Parent would have provided important additional information. Third, Ms. Hutson did not observe the Student in class even though that is her standard practice,

so, again, information from the Parent, who had homeschooled the Student for three years, was that much more important. Had the District followed its own practices, a much more thorough and appropriate reevaluation would have been conducted in the area of social/behavior.

17. Finally, and significantly, the evaluation team went forward with its meeting without Ms. Parent present. The law provides that “[t]he parents of a student eligible for special education services must be afforded an opportunity to participate in meetings with respect to the identification, *evaluation*, educational placement and the provision of FAPE to the student.” WAC 392-172A-05001(1)(a) (emphasis added). “Participation” generally includes whether the parents received notice of meeting, received draft documents before meeting, engaged in discussion, posed questions, and had opportunities to comment at meetings. *Mercer Island Sch. Dist.*, 121 LRP 1640 (SEA Wash. 2020).

18. An evaluation report must include any “other information, as determined through the evaluation process *and parental input*, needed to develop an IEP.” WAC 392-172A-03035(1)(e)(emphasis added). Moreover, once assessments and evaluation measures have been completed, “a group of qualified professionals *and the parent* of the student determine whether the student is eligible for special education services and the educational needs of the student.” WAC 392-172A-03040(1)(a)(emphasis added).

19. While the appropriateness of the eligibility determination made at the evaluation meeting is not at issue here, discussing and finalizing the evaluation report prior to an eligibility determination is part of the evaluation process. Ms. Parent had a right to be included in the meeting to discuss the evaluation, and failure to include her deprived her of the opportunity to provide input and feedback. See *Kayla W. V. Chichester School Dist.*, 2022 U.S. Dist. LEXIS 29356 *17 (E.D. Pa. Feb. 18, 2022)(it was a violation of the IDEA to deny parent the opportunity to participate in the post-evaluation eligibility meeting because parent lost the opportunity to be informed about the evaluation process and to advocate for her child); *Allen East Local Schools*, 61 IDELR 209, 113 LRP 13203 (SEA Ohio 2/25/13)(district violated the IDEA when it presented a draft evaluation report to parent that stated the student did not have a disability, because parent’s belief that a determination had already been made, and that her input would not have any impact on the decision, “may have negatively affected the input she provided”).

20. When determining the appropriateness of an evaluation, the focus is on whether the school district adequately followed the required procedures, not on the substantive results of the evaluation or the subsequent eligibility determination. *W. Chester Area Sch. Dist. v. G.D.*, 2017 U.S. Dist. LEXIS 10132 *8 (E.D. Pa. January 25, 2017)(“pivotal

question” is whether the district’s methodology was adequate). In the Ninth Circuit, a school district’s “harmless error” in the evaluation process does not render the evaluation inappropriate. *R.Z.C. v. Northshore Sch. Dist.*, 755 F. App’x. 658, 660 (9th Cir. 2018). However, procedural errors are not harmless when they substantially interfere with a parent’s opportunity to participate in the decision-making process, and impeding a parent’s right to fully participate in the evaluation process can constitute a procedural violation of the IDEA. *R.Z.C. v. Northshore Sch. Dist.*, 2017 U.S. Dist. LEXIS 178609 *13-14, 30 (W.D. Wash. October 27, 2017).

21. In the present case, had Ms. Parent participated in the evaluation meeting, she might well have raised the issue the Student has with hygiene, concerns about ARFID or medication, his insomnia and prominent sleepiness, and/or social/behavioral issues. She also could have provided or elaborated on information she had obtained through homeschooling the Student for the past three years.

22. The District argues that holding the reevaluation meeting without Ms. Parent did not significantly impede Ms. Parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to her child, in part because she did not request another meeting to discuss the results and did not dispute them. District’s Post-Hearing Brief at 22-23. This argument is not persuasive. The Ninth Circuit has consistently held that a school district “cannot eschew its affirmative duties under the IDEA by blaming the parents.” *Doug C. v. Hawaii Dep’t of Education*, 720 F.3d 1038, 1045 (9th Cir. 2013). The District gave Ms. Parent only a few hours’ notice of the reevaluation meeting and, thus, only a few hours to review a complex 18-page report. The District then made no effort to determine why Ms. Parent was not at the meeting and did not even consider rescheduling it. It cannot be concluded that Ms. Parent is somehow to blame for her lack of opportunity to provide input at the meeting, or that she had an affirmative duty to hold the District to its statutorily mandated obligations.

23. Accordingly, it cannot be concluded that the District’s failure to seek and obtain information from the Parent as required, and its subsequent failure to include Ms. Parent in the reevaluation meeting, were harmless errors. Rather, these failures significantly impeded Ms. Parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to her child. This constitutes a procedural violation of the IDEA that amounts to a denial of FAPE and entitles the Parent to a remedy.

24. For the reasons set forth above, it is concluded that the District has not met its burden to prove that the October 2025 reevaluation of the Student is appropriate.

ORDER

The Seattle School District's October 2025 reevaluation of the Student is not appropriate. The Parent is entitled to an independent educational evaluation of the Student at public expense.

SERVED on the date of mailing.

A handwritten signature in black ink, appearing to read "J. Becker", written in a cursive style.

Jacqueline Becker
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 June 18, 2026, at Spokane Valley, Washington.

Lan Le

Representative
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