

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

White River School District

Docket No. 02-2026-OSPI-02827

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

Agency: Office of Superintendent of
Public Instruction

Program: Special Education

Cause No. 2026-SE-0018

This matter came before Administrative Law Judge (ALJ) Jill H. Brown for hearing on June 11 and 12, 2026, via videoconference. The Parents of the Student whose education is at issue¹ appeared and represented themselves. The White River School District (District) was represented by Erin Sullivan-Byorick, attorney at law. Molly Lutz, executive director of special education, was also present for the District. ALJ Maira Perez observed the hearing.

The ALJ, having sworn the witnesses, heard testimony, and considered the admitted exhibits and arguments of the parties, enters the following:

STATEMENT OF THE CASE

Procedural History

The District filed a Due Process Hearing Request (Complaint) with the Office of Administrative Hearings (OAH) on February 9, 2026. The Complaint was given Cause No. 2026-SE-0018 and assigned to ALJ Paul Alig. It was subsequently reassigned to ALJ Brown. The Parents filed a response to the Complaint on February 19, 2026.

The due process hearing was set for April 16 and 17, 2026. Due to the unanticipated unavailability of the ALJ, the hearing was continued and later scheduled for June 11 and 12, 2026. ALJ Brown issued a continuance order on April 27, 2026, and prehearing orders on March 10, 2026, and May 8, 2026.

ALJ Brown conducted the due process hearing as scheduled. ALJ Brown issued an order setting a due date for post-hearing briefs on June 15, 2026.

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

Due Date for Written Decision

In a prior order, the ALJ extended the 45-day deadline for a written decision in this case to thirty (30) days after the record of the hearing closes. The record of the hearing closed on July 27, 2026, at 5:00 p.m., when the parties timely submitted post-hearing briefs. The due date for a written decision is August 26, 2026.

EVIDENCE RELIED UPON

Exhibits Admitted:²

District's Exhibits: D1–D21; and

Parents' Exhibits: P1–P7.

Witnesses Heard:

Father of the Student;

Emilia Tzetos Turta, District school psychologist;

Carolyn Williams, District speech language pathologist;

Amy Birkliid, District general education teacher;

Brandie Hicks, District special education teacher; and

Molly Lutz, District executive director of special education.

ISSUE

Whether the District's evaluation of the Student conducted on January 16, 2026, was appropriate and, if not, whether the Parents are entitled to an independent educational evaluation at public expense.

FINDINGS OF FACT

Background

1. The Student is twelve years old.³ English is the Student's second language.⁴ He was born in [REDACTED].⁵ In August 2023 the

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

³ D1.

⁴ T40.

⁵ D2 p3, p6.

language spoken at Student's home and the language most spoken by the Student was [REDACTED].⁶

2. The Student began attending school in the United States in September 2022.⁷ In the 2022-2023 school year, the Student attended third grade in the Lake Washington School District.⁸

3. In January 2023 the Lake Washington School District conducted an initial evaluation of the Student (2023 Evaluation).⁹ The Student was found eligible for special education services in the disability category of autism.¹⁰ The Student qualified for specially designed instruction (SDI) in social-emotional skills and behavior and related services in fine motor and communication.¹¹

4. Under an individualized education program (IEP) dated February 13, 2023, the Student received SDI in social-emotional skills and behavior with a special education teacher; fine motor services with an occupational therapist (OT); and communication services with a speech and language pathologist (SLP).¹²

5. In or around August 2023, the Student and his family moved to [REDACTED], Washington.¹³

6. For the 2023-2024 and 2024-2025 school years, the Student attended fourth and fifth grades respectively at Elk Ridge Elementary School (ERES) in the District.¹⁴

7. The Student's August 24, 2023 IEP, September 28, 2023 IEP, September 26, 2024 IEP, and May 6, 2025 IEP all relied on the Student's 2023 Evaluation.¹⁵

8. The Student's May 2025 IEP provided the Student with SDI in social-emotional skills and behavior with a paraeducator supervised by a special education teacher; fine motor consultative services with an OT; and communication services with an SLP.¹⁶

⁶ D2 p3, p6.

⁷ D2 p6.

⁸ D4 p3.

⁹ D3.

¹⁰ D3 p3.

¹¹ D3 p5.

¹² D4 p17.

¹³ D2 p5.

¹⁴ D2 p37.

¹⁵ D5 p3; D6 p9; D7 p3; D8 p4.

¹⁶ D8 p15; D16 p2.

9. In May 2025, while in fifth grade, the Student exhibited some behaviors that concerned the Parents and school staff, including “humping” a fellow student, throwing food at lunch, and showing unwanted attention to a female student.¹⁷

10. A prior written notice (PWN) dated June 4, 2025, noted that the Student’s reevaluation must be completed by January 19, 2026, to meet the requirement that a reevaluation be completed every three years.¹⁸

11. The Student began attending sixth grade at Glacier Middle School (GMS) in the District for the 2025-2026 school year.¹⁹

January 2026 Reevaluation

12. By email dated December 4, 2025, school psychologist Emilia Turta²⁰ let the Parents know she had emailed them a link where they could access paperwork for the Student’s reevaluation, including a consent form.²¹ Ms. Turta followed up on obtaining the Parents’ consent in emails dated December 12, 2025, and January 6, 2026.²²

13. The Parents provided signed consent on January 6, 2026, to reevaluate the Student in the areas of cognitive; social, emotional, and/or behavior; speech/language; and adaptive.²³ The Parents asked to add the area of “Other: Executive functioning/organization (middle school demands), social vulnerability/peer-pressure risk, pragmatic language in natural settings (unstructured times).”²⁴ The evaluation areas reflected on the signed consent form were discussed with the Student’s Mother by Ms. Turta.²⁵ The areas on the signed consent form are the areas the Parents wanted assessed for the Student.²⁶

14. As part of the Reevaluation, the Parents completed parent input forms in which they expressed multiple concerns about the Student. They expressed that at home they

¹⁷ P1; P2; P3;

¹⁸ D8 p3.

¹⁹ D2 pp37 and 53.

²⁰ Ms. Turta has a master’s, bachelor’s, and associate’s degrees in psychology. D21 pp12-13. She has worked in the District since 2025. T80. From 2017 to 2025, Ms. Turta worked as a school psychologist in the Riverview School District. Prior to becoming a school psychologist in the District, she served as a school counselor and school psychologist in two other school districts in Washington and at schools in California. D21 pp12-13.

²¹ D12.

²² D13; D14.

²³ D16 pp22-23.

²⁴ D16 p22.

²⁵ T87.

²⁶ T29.

witness the Student's "after-school collapse" after masking his social deficits all day. They also identified the Student's struggles with identifying non-literal language encountered at school and his tendency to mistake "manipulation as friendship."²⁷

15. The Parents' primary concerns for the Student at school were reported as social safety and pragmatic judgment; safety and vulnerability; and social blindness. The Parents expressed concern that the Student cannot distinguish between friendly banter and malicious manipulation and he struggles to read non-verbal cues.²⁸ The Father believes the Student needs explicit instruction and guided practice with pragmatic or social communication, recognizing his peers' intent, peer pressure, manipulation, and testing boundaries.²⁹

16. The Reevaluation team assessed the Student in the areas of social, emotional and/or behavioral; speech/language; and motor.³⁰ Ms. Turta assessed the Student in the areas of social/emotional and behavior, Ms. Williams assessed the Student in communication, and Ms. Peters assessed the Student's motor skills.³¹

17. There is no evidence in the record addressing the difference in the areas of evaluation identified on the consent form signed by the Parents (cognitive; social, emotional, and/or behavior; speech/language; adaptive; and [added by the Parents] other: executive functioning/organization, social vulnerability/peer-pressure risk, pragmatic language in natural settings)³² and the areas actually evaluated by the District.

18. The Student's Father believes the Student has made significant progress in his English language development.³³ When asked if English is a "difficulty and a barrier" for the Student in school, Ms. Lutz replied that "[i]t does not perceive as it is [sic]."³⁴ The record does not include data showing the Student's skill-level in speaking English during the 2025-2026 school year.

19. There is no dispute that the assessments were all administered in English. The record does not show whether the team considered the fact that English is the Student's second language when it administered the assessments or whether administering the assessments in his native language was feasible.

²⁷ D16 p24.

²⁸ D16 p24.

²⁹ T41.

³⁰ D16 p3 and p19.

³¹ T85; T151.

³² D16 pp22-23.

³³ T40.

³⁴ T285.

Social/Emotional

20. As part of the Reevaluation, Ms. Turta observed the Student in the classroom, consulted with another team member who observed the Student during unstructured times, performed a comprehensive file review of his academic history, collected input from teachers and the Parents, and interviewed the Student.³⁵

21. To complete the social/emotional portion of the reevaluation, Ms. Turta administered the Social Skills Improvement System, Social Emotional Learning Edition (SSIS-SEL). The SSIS-SEL is a rating scale that³⁶

assesses a student's social/emotional skills. Average standard scores may range from 85 -115, with 100 being the mean. Scores between 70 - 84 are considered to be in the Below Average range and scores below 69 are considered to be Well Below Average.

22. The record does not include evidence showing Ms. Turta reviewed and followed the SSIS-SEL instructions provided by the producer of the assessment. The record does not include evidence of Ms. Turta's training, knowledge, or experience in performing the assessment.

23. Ms. Birkliid, Ms. Hicks, and the Student's Mother rated the Student's social/emotional skills as follows:

SSIS-SEL Subtests	Ms. Birkliid	Ms. Hicks	Mother
Self-Awareness	72	120	69
Self-Management	93	123	80
Social Awareness	97	123	96
Relationship Skills	82	129	67
Responsible Decision Making	91	122	89
Core Skills	95	124	83
Academic Competence	109	122	N/A
SSIS-SEL Composite	85	128	76

24. In order to demonstrate an adverse impact and a need for SDI, SSIS-SEL composite scores must fall in well-below average ranges, which indicates a significant need and a limit of access to education.³⁷ The results of SSIS-SEL rating scales for the Student indicate there are no areas of significant social-emotional concern at school. The composite score on the Parent's form indicates overall SSIS-SEL skills at home are

³⁵ T89-90.

³⁶ D16 p4.

³⁷ D16 p5.

an area of weakness that may still present the Student with some challenges. Overall, the Student's SSIS-SEL composite scores were within average ranges.³⁸

25. Ms. Turta observed the Student in his general education science class for 30 minutes. While she observed the Student, she also observed a same grade/gender peer for comparison. During this observation the Student was on task for 90% of the time, while the same grade/gender peer was on task for 83% of the time. The Student followed along with class instruction and did not demonstrate any significant behavioral concerns during the observation.³⁹

Behavior

26. Ms. Turta assessed the Student's behavior using the Behavior Assessment System for Children-Third Edition (BASC-3).⁴⁰ The BASC-3 is a rating scale that assesses a student's behaviors, social skills, and adaptive skills.⁴¹

The BASC-3 measures behaviors such as hyperactivity, aggression, conduct problems, anxiety, depression, somatization, attention problems, atypicality, and withdrawal. These are then compiled into an overall externalizing behavior composite, internalizing behavior composite, and an overall behavioral symptoms index rating. The BASC-3 also measures adaptive behaviors such as adaptability, social skills, leadership, functional communications, and activities of daily living. These are then compiled into an overall adaptive skills composite index score.

* * *

Average T-Scores may range from 40-60, with 50 being the mean. Behavior scores between 60-70 are considered to be in the at-risk range and scores over 70 are considered to be clinically significant. Adaptive scores between 30-40 are considered to be in the at-risk range and scores below 30 are considered to be clinically significant.

27. Ms. Birkliid, Ms. Hicks, and the Student's Mother completed BASC-3 rating scales.⁴²

³⁸ D16 p5.

³⁹ D16 pp3-4.

⁴⁰ D16 p5.

⁴¹ D16 pp5-6.

⁴² D16 p6.

28. The record does not include evidence showing Ms. Turta reviewed and followed the BASC-3 instructions provided by the producer of the assessment. The record does not include evidence of Ms. Turta's training, knowledge, or experience in performing the assessment.

29. In order to reflect an adverse impact and a need for SDI, BASC-3 composite scores must indicate a significant need and fall into clinically significant ranges.⁴³ None of the three rating scales indicated the Student's overall skills were within the clinically significant range.⁴⁴ Ms. Birkliid rated the Student's atypicality in the clinically significant range and anxiety and withdrawal in the at-risk range. Ms. Hicks did not rate any areas in the clinically significant or at-risk ranges. The Mother did not rate any areas in the clinically significant range. She rated anxiety, atypicality, withdrawal, adaptability, functional communication, and overall adaptive skills in the at-risk range.⁴⁵

Speech/Language

30. Ms. Williams assessed the Student's communications skills through observation, file review, and by using the Clinical Evaluation of Language Fundamentals- Fifth Edition (CELF-5) pragmatic language subtest, the Social Language Development Test-Adolescent: Normative Update (SLDT-A:NU), and the Dynamic Assessment of Social Emotional Learning (DASEL).⁴⁶

31. The CELF-5 pragmatic language subtest is a checklist used to gather information about a student's verbal and nonverbal pragmatic skills.⁴⁷ As part of the CELF-5, it assesses⁴⁸

receptive and expressive language skills in children ages six through twenty-one. Items are listed in order of difficulty based on the performance of children involved in the normative studies. Scaled scores have a mean of 10 and a standard deviation of 3. Scaled scores falling between 7 and 13 are within the average range of abilities . . .

32. The Student received a scaled score of 8 on the pragmatic profile checklist, which is in the average range.⁴⁹

⁴³ D16 p6.

⁴⁴ D16 pp6-7.

⁴⁵ D16 p6; T151.

⁴⁶ D16 p7.

⁴⁷ D16 p7.

⁴⁸ D16 p7.

⁴⁹ D16 p7.

33. The SLDT-A:NU is a diagnostic test of social language skills, including nonverbal communication, for adolescent students aged 12 through 17 years.⁵⁰ The SLDT-A:NU assessed the Student in the areas of making inferences, interpreting social language, problem solving, social interaction, and interpreting ironic statements.⁵¹ Each test area generates a scaled score and a percentile rank (compared to same age peers). The SLDT-A:NU generated the following results for the Student:⁵²

Sum of Scaled Scores: 64
Social Language Development Index: 117
Percentile Rank: 87%
Descriptive: Above Average

34. The DASEL is “an informal assessment that provides a comprehensive profile of a student’s daily communication skills, emotional regulation, and social abilities by collecting data in real-time.”⁵³ To complete the DASEL, Ms. Williams observed the Student at lunch and recess for a total of 33 minutes.⁵⁴ She witnessed the Student engage with peers at his lunch table and at a table behind him. She noted that he followed lunchroom expectations and appeared happy.⁵⁵ During lunch, Ms. Williams saw the Student stop some students behind him who were teasing another student.⁵⁶ The Student went to class when the bell rang.⁵⁷

35. For the DASEL assessment, Ms. Williams used standard forms to collect information from the Student, the Parents, and three general education teachers.⁵⁸

36. Overall, the Student received average to above-average scores on his standardized communication testing compared to same age peers. The Student’s self, teacher, and Parent reports show he is successful within the educational environment.⁵⁹

37. The record does not include evidence showing Ms. Williams reviewed and followed the instructions for the communication assessments provided by the

⁵⁰ D16 p7.

⁵¹ D16 pp7-8.

⁵² D16 p8.

⁵³ D16 p8.

⁵⁴ D16 p8; T164

⁵⁵ D16 pp8-9.

⁵⁶ T170.

⁵⁷ D16 p9.

⁵⁸ D16 pp9-10.

⁵⁹ D16 p10.

producer of the assessments. The record does not include evidence of Ms. William's training, knowledge, or experience in performing the assessment.

Fine Motor

38. The parties stipulate to the accuracy of the fine motor/occupational therapy evaluation. The parties further stipulate that the Student does not require occupational therapy services.⁶⁰ Based on these stipulations of fact, the tribunal makes no further findings related to the Fine Motor assessment of the Student.

Eligibility Determination

39. On January 16, 2026, the Student's reevaluation team met to discuss the January 2026 Reevaluation.⁶¹ Meeting participants included Molly Lutz,⁶² executive director of special education; Michael Joshua, vice principal of GMS; Ms. Turta; Carolyn Williams,⁶³ SLP; Carly Peters, OT; Brandie Hicks,⁶⁴ special education teacher; Amy Birkliid,⁶⁵ general education teacher; and the Parents.⁶⁶ Ms. Turta provided the Parents with a copy of the Reevaluation via email.⁶⁷

40. Based on the results of the Reevaluation, the team determined the Student no longer meets the eligibility criteria for special education.⁶⁸ While the Student has a disability (autism), the team determined his disability no longer has an adverse educational impact and he no longer requires SDI. According to the team, the Student

⁶⁰ T66.

⁶¹ D16 p19.

⁶² Ms. Lutz has a master's degree in special education and a bachelor's degree in elementary education. She has an administrative leadership certification. D21 pp8-9. She has been the executive director of special education in the District since 2022. T281. In the period of 2016 through 2022, Ms. Lutz served as the assistant director of student services, director of student services, and as a principal in the Riverview School District. Prior to that, she was a special education teacher in the Snoqualmie Valley School District. She has been a teacher for 21 years. T279; D21 pp8-9.

⁶³ Ms. Williams has a master's degree in speech language pathology and bachelor's degrees in communication disorders and linguistics. She is a certified SLP and has worked as an SLP in the District since 2019. Prior to that, she served as an intervention coordinator in the District from 2015 to 2019, and as a behavioral therapist for a consulting firm from 2001 to 2003. D21 pp14-15.

⁶⁴ Ms. Hicks has master's and bachelor's degrees in education. She is licensed to teach in Washington schools. Ms. Hicks has been a special education teacher in the District since 2018. She previously served as a special education teacher in the Highline School District. D21 pp 3-4.

⁶⁵ Ms. Birkliid has master's and bachelor's degrees in exercise science. She has a principal certification. She has been a general education teacher for 15 years. She currently teaches sixth and eighth grade science in the District. Previously, Ms. Birkliid served as a dean of students and an assistant principal in the District. T191-193.

⁶⁶ D6 pp17-19.

⁶⁷ D17.

⁶⁸ D16 p16.

does not require additional support beyond what is available in general education, and continuing special education would deny the Student access to his least restrictive environment.⁶⁹

41. The team recommended that the Student be referred for a 504 plan.⁷⁰

42. The Parents disagreed with the eligibility determination and declined to sign the Reevaluation.⁷¹

43. The Parents requested an independent educational evaluation (IEE) at public expense on January 28, 2026.⁷² On behalf of the District, Ms. Lutz denied the Parents' request.⁷³

44. When Ms. Lutz considers a parent's request for an IEE at public expense, she reviews the evaluation and ensures that:⁷⁴

- all areas of the parents' concerns are addressed;
- the team evaluating the student is qualified to administer all of the tests and to evaluate in those specific areas;
- the team uses a variety of assessment tools, including observation, file review, medical review, parent input, student input, teacher input, and norm referenced tests; and
- the test is administered in a language the student can understand.

CONCLUSIONS OF LAW

Jurisdiction

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

⁶⁹ D16 p15.

⁷⁰ D16 p16.

⁷¹ D16 p20; D18.

⁷² T295.

⁷³ T295.

⁷⁴ T295-296.

Burden and Standard of Proof

2. The District bears the burden of proof in this matter.⁷⁵ In a due process hearing, the burden of proof must be met by a preponderance of the evidence.⁷⁶ Therefore, the District must meet its burden by a preponderance of the evidence.

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.”⁷⁷

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.”⁷⁸

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.⁷⁹ 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.⁸⁰

⁷⁵ RCW 28A.155.260(1).

⁷⁶ RCW 28A.155.260(3).

⁷⁷ *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 197 n.21, 200-201 (1982).

⁷⁸ *Rowley*, 458 U.S. 176 at 206-07.

⁷⁹ *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir. 2001).

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

Reevaluations and Independent Educational Evaluations

6. The IDEA requires that special education reevaluations be conducted at least every three years, unless the parent and the district agree that a reevaluation is unnecessary.⁸¹ Evaluations and reevaluations must comply with the requirements in WAC 392-172A-03020.

7. Parents have a right to obtain an IEE if they disagree with a school district's evaluation or reevaluation of their child, under certain circumstances.⁸² An IEE is an evaluation conducted by a qualified examiner who is not employed by the school district, at district expense.⁸³ 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.⁸⁴

8. 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.⁸⁵

9. Not all procedural flaws require a finding of a denial of IDEA rights.⁸⁶

The District's January 2026 Reevaluation of the Student was Not Appropriate

10. The Parents assert that the District's Reevaluation of the Student was inappropriate. For the reasons outlined below, this tribunal concludes that the District failed to properly reevaluate the Student, resulting in a violation of the IDEA and a denial of a FAPE.

11. WAC 392-172A-03020(1) requires the school district to provide prior written notice to the parents, in accordance with the notice requirements prescribed by WAC 392-172A-05010, that describes any evaluation procedures the district proposes to conduct.⁸⁷

⁸¹ WAC 392-172A-03015(2)(b). See also, 34 CFR § 300.303.

⁸² WAC 392-172A-05005; 34 CFR 300.502(a)(1).

⁸³ WAC 392-172A-05005(1)(c)(i); 34 CFR 300.502(b).

⁸⁴ WAC 392-172A-05005(2)(c).

⁸⁵ WAC 392-172A-05005(3).

⁸⁶ *Ford v. Long Beach Unified Sch. Dist.*, 291 F.3d 1086, 1089 (9th Cir. 2002); *W.G. v. Bd. of Trustees of Target Range Sch. Dist.*, 960 F.2d 1479, 1484 (9th Cir.1992); *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 892 (9th Cir.2001).

⁸⁷ WAC 392-172A-03020(1).

12. Here, the District did not conduct assessments in all of the identified areas on the signed consent form, added an assessment area that was not included in the consent, and did not provide evidence that it adequately addressed the Parents' requested areas of evaluation. Because the District conducted an assessment that was not disclosed in the signed consent and failed to conduct all of the evaluation procedures identified therein, the District did not provide notice describing the evaluation procedures it proposed to conduct, as required by WAC 392-172A-03020(1). As a result, the District failed to comply with the evaluation procedures required by chapter 392-172A WAC.

13. Under WAC 392-172A-03020(3), assessment materials must be selected and administered so as not to be discriminatory on a racial or cultural basis. The materials must be⁸⁸

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.

14. The District conducted the Reevaluation in English, the Student's second language. The Student's native language is [REDACTED] and as recently as August 2023, [REDACTED] was the language spoken in the Student's home and the language most spoken by the Student. The District presented no data or other evidence demonstrating that the Student's English-speaking skills at the time of the Reevaluation were at a level that would allow him to fully understand and participate in the assessment. Ms. Lutz's claim that "it does not perceive as [English]" is a difficulty and barrier for the Student in school is not sufficient to show that testing in English, rather than in the Student's native language, was likely to yield accurate information on the Student's academic, developmental, and functional abilities. The fact that the District's special education director typically ensures that tests were administered in a language the student can understand after she receives a request for an IEE at public expense is not sufficient to show adherence to the WAC requirements for *this* Student specifically. Moreover, the District presented no evidence that administering the assessments in [REDACTED] was clearly not feasible for the District. Accordingly, the District failed to demonstrate compliance with WAC 392-172A-03020(3).

⁸⁸ WAC 392-172A-03020(3)(a); see also 34 CFR §300.304.

15. WAC 392-172A-03020(3) requires that assessments and other evaluation materials be administered by trained and knowledgeable personnel and in accordance with any instructions provided by the producer of the assessments.

16. Other than their resumes, the District presented no evidence identifying the training, qualifications, or experience of the individuals who administered the Student's assessments. Likewise, the District presented no evidence demonstrating that the assessments were administered in accordance with the publishers' instructions. The record shows that when the District's special education director receives a request for an IEE at public expense, she ensures that the team who evaluated the student is qualified to administer all of the tests and to evaluate the student in the areas of concern identified by the parents. The special education director's testimony demonstrated what she does when she receives an IEE request; the District provided no evidence to show that it specifically made such assurances about the team's qualifications with *this* Student. Additionally, in its closing brief, the District relies on the fact that the Father did not dispute that the team members were qualified as sufficient evidence that it met its burden under WAC 392-172A-03020(3).⁸⁹ There is no evidence showing the Father has experience or training in performing evaluations or in building teams who do so. The fact that the Father does not dispute the teams' qualifications does not satisfy the District's burden to show that the assessors possessed the required knowledge and experience and it does not address whether the team administered the assessments in accordance with the producer's instructions. The District bore the burden of establishing that its Reevaluation complied with the requirements of chapter 392-172A WAC. In the absence of evidence demonstrating compliance with WAC 392-172A-03020(3), the District has not established that the assessments were administered as required by law.

Conclusion

17. The District's failure to reevaluate the Student in the areas set forth in the notice and consent, its failure to demonstrate compliance with the native-language assessment requirements, and its failure to establish that the assessments were administered by trained and knowledgeable personnel in accordance with the publishers' instructions collectively demonstrate that the District has not met its burden of proving that the January 2026 Reevaluation was appropriate under the IDEA and chapter 392-172A WAC.

18. Because the District has not established that its Reevaluation was appropriate, the Parents are entitled to an IEE at public expense pursuant to WAC 392-172A-05005.

⁸⁹ District Post Hearing Brief pp9-10.

ORDER

The White River School District's January 16, 2026 Reevaluation of the Student was not appropriate. The Parents are entitled to an independent educational evaluation at public expense.

SERVED on the date of mailing.



Jill H. Brown
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 6, 2026, at Spokane Valley, Washington.

Lan Le

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