

<p>State of Colorado</p> <p>Office of Administrative Courts</p> <p>1525 Sherman Street, 4th Floor, Denver, Colorado 80203</p>	<p style="text-align: center;">▲ Court Use Only ▲</p>
<p>Jefferson County School District R-1, Complainant,</p> <p>vs.</p> <p>[Father] and [Mother] on behalf of their minor child [Student], Respondents.</p>	
<p>Agency Decision</p>	

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On July 23, 2025, the Colorado Department of Education (“CDE”), Exceptional Student Services Unit, received a Due Process Complaint filed by the Jefferson County School District R-1 (“District”) because [Father] and [Mother] (“Parents”) disagreed with the District’s June 4, 2025 evaluation of their daughter, [Student], and requested an independent educational evaluation (“IEE”) at public expense. The Individuals with Disabilities Education Act (“IDEA”) requires that when an IEE at public expense is requested, the school district must either ensure parents receive an IEE or file a due

process complaint to show that its evaluation is appropriately comprehensive, which is what the District did in this case. On July 23, 2025, the due process complaint was forwarded to the Office of Administrative Courts (“OAC”) and assigned to Administrative Law Judge (“ALJ”) Tanya T. Light.

The hearing was convened in accordance with 20 U.S.C. § 1415(f), and held in person at the OAC in Denver, Colorado on September 23, 2025; October 29, 2025; November 21, 2025; and December 19, 2025. The District was represented by Robert P. Montgomery, Esq. of Semple, Farrington, Everall & Case, P.C. [Student]’s Parents, [Father] and [Mother], were represented by Walt Kramerz, Esq. of Kramerz Law, LLC.

At hearing, the ALJ admitted into evidence the following stipulated exhibits: District Exhibits 1-3, 5-9, 14, 19, and 20; and Respondent Exhibits A, B, F, G, H, I, and O. The court also admitted District Exhibits 4, 10, 11, 13, 15, 22, and 23; and Respondent Exhibits C, D, E, K, L, M, N, Q, R and S. The hearing was recorded.

Issue Presented

Whether the District’s June 4, 2025 evaluation of [Student] was appropriately comprehensive or if the court should order an IEE be performed at public expense.

Findings of Fact

1. The parties stipulated that there are no concerns with the communicative assessment portion of the District’s evaluation of [Student] and that this assessment was adequate.

[Student]

2. [Student] was an eighth-grade special education student in the District’s [School] (“[School]”) school in the 2024-2025 school year. By all accounts, [Student] is kind, a hard worker, and organized. [Student] has been a District student since kindergarten, and her Parents are advocates of public education. However, for a variety of reasons, [Student]’s Parents chose to place [Student] in [Private High School], a private high

school in Denver, for her ninth-grade year. They hope to return [Student] to a District school in the future.

3. [Student] originally qualified for special education and related services in the category of Specific Learning Disability (“SLD”) for reading and was in General Education 80% of the time.

4. [Student] has struggled with reading for years, despite her hard work. She uses audio books, which helps.

5. [Student] has been diagnosed with depression and anxiety and was hospitalized for those conditions in August of 2024. After hospitalization, [Student] received weekly counseling sessions outside of school for the entirety of her eighth-grade year. Exhibit 3 at 26; Exhibits L and M.

6. On June 2, 2025, the District finalized a triennial evaluation of [Student] (“Evaluation”). Exhibit 3. [Student]’s Parents did not believe the Evaluation was sufficiently comprehensive and requested an IEE at public expense. The District denied their request and filed this due process complaint pursuant to 34 CFR § 300.502(b)(2)(i).

[Special Education Teacher]

7. [Special Education Teacher] is a [School] special education teacher. This is her fifth year working there and she has been a special education teacher for approximately 10 years. [Special Education Teacher] has a master’s degree in special education and is licensed in Colorado as a special education generalist.

8. [Special Education Teacher] conducts approximately ten special education evaluations annually. She first receives consent from parents, then gathers a body of evidence, including student needs and their performance in the classroom, among other things.

9. [Special Education Teacher] was [Student]'s special education teacher in the 2024-2025 school year. She credibly testified that [Student] was "really on top of things" but needed help in reading, reading fluency, and reading comprehension.

10. [Special Education Teacher] did not see that [Student]'s social/emotional needs were impacting her access to education, nor did she notice any anxiety on [Student]'s part. She did, however, see [Student] become "really bubbly" and "super up and happy," which is how [Special Education Teacher] believed [Student]'s anxiety was manifesting.

11. [Special Education Teacher] saw [Student] respond well to the supports she received at [School].

12. On March 28, 2025, [Special Education Teacher] sent [Student]'s Parents a consent form for her triennial Evaluation in the areas of Academic Performance, Social and Emotional Status, and Health. Exhibit 10. Parents did not sign the consent form because they wanted more areas tested, specifically communication and cognitive ability.

13. On March 28, 2025, [Student]'s mother emailed [Special Education Teacher] explaining that although [Student] would be attending a private high school the next year, [Student]'s Parents' desire was "to have the IEP triennial completed, a new IEP set up, for the chance that A: [Private High School] is not a fit for [Student] and she needs to go back to the Public School System and/or B: So that [Private High School] fully understands [Student]'s academic needs." Exhibit 11.

14. [Special Education Teacher] credibly testified that the fact that [Student] might attend [Private High School], a private school, instead of a District school did not affect the comprehensiveness of the Evaluation.

15. On April 7, 2025, Parents signed the Consent for Reevaluation. It was revised to test Communicative Status, Academic Performance, Social and Emotional Status, and Health. Exhibit 2.

16. The Consent for Reevaluation stated, “Parents requested a cognitive assessment. This option was considered but rejected as there are no cognitive concerns.” Exhibit 2.

17. [Special Education Teacher] credibly testified she had not seen [Student] struggle with cognition, and she did not suspect cognitive impairment after reviewing the body of evidence. [Special Education Teacher] further credibly testified that she did not observe [Student] having cognitive challenges that would rise to the level of needing a cognitive assessment.

18. [Special Education Teacher] credibly testified that [Student] struggled with working memory but that struggle did not mean [Student] had an intellectual disability.

19. [Special Education Teacher] credibly testified that there is a downside in testing for cognitive impairment. Stigma can attach to students such as [Student] based on their cognitive scores, and “false negatives” can occur, which mean that teachers may believe a student will not be able to perform because of the student’s cognitive scores.

20. [Special Education Teacher] credibly testified that [Student] was performing at grade level; was receiving “C”s or higher in core content classes; and that she was doing “quite well.”

21. [Special Education Teacher] participated in [Student]’s Evaluation. She authored the “Evaluation Introduction.” Her statements included:

- a. [Student] was placed in a READ program in kindergarten, 12/20/2016. Exhibit 3 at 1.
- b. She received tier-2 reading intervention for 30 minutes every day through 5th grade. *Id.*
- c. In 5th grade [Student] was determined eligible for special education services under the specific learning disability (SLD) classification, with identified deficits in basic reading skills – 8th%tile, reading fluency – 9th%tile, and reading comprehension-16th%tile. *Id.*

- d. [Student] is very hard working, motivated, [sic] volleyball star, focuses on academics. She always tries her very best. *Id.*
- e. [Student] struggles with reading, schoolwork can be difficult. At times, she does not comprehend underlying messages or information that peers of her age understand. *Id.*
- f. [Special Education Teacher] quoted [Student]’s parents who stated, “we don’t think the school team has done the appropriate assessments to really understand and get an accurate profile of [Student]. Her current IEP does not address all of her reading deficiencies and school team doesn’t have the proper data to create much needed goals to prepare her for high school.” Exhibit 3 at 1; see *also* Exhibit 19.

22. [Special Education Teacher] performed [Student]’s Academic Performance Assessments and obtained teacher input for the Evaluation. She performed the Kaufman Test of Educational Achievement (“KTEA-3”). Exhibit 3 at 7. The KTEA-3 measures all academic areas and is norm-referenced by age and grade. The data shows that [Student] scored in the average range in all areas but two in which she scored “below average”: Silent Reading Fluency (16th%) and Word Recognition Fluency (18th%). *Id.* at 8.

23. [Special Education Teacher] credibly testified that there was no reason to administer the KTEA Decoding Fluency subtest because [Student]’s decoding score in comprehension was well above the 12th percentile. The 12th percentile is CDE’s cut-off score meaning any score above that does not require that a student be further tested.

24. [Special Education Teacher] credibly testified that a child can have dyslexia but not qualify for special education in the SLD category. Additionally, she credibly testified that [Student] was tested in areas that are potentially impacted by dyslexia, including reading fluency, basic reading, and reading comprehension.

25. [Special Education Teacher] performed a comprehensive record review of [Student] as part of the Evaluation. However, she credibly explained that all the

information she reviewed may not be discussed in the Evaluation because some information may be irrelevant or repetitive.

26. [Special Education Teacher] did not request any writing samples from [Student] because [Student] had not shown a need in writing ability.

27. [Special Education Teacher] performed the Dynamic Indicators of Basic Early Literacy Skills (“Dibels”) test. The Dibels measured [Student]’s progress from August through March of the 2024-2025 school year. It showed that she made progress but did not meet benchmarks. Exhibit 3 at 9.

28. [Special Education Teacher] credibly testified that for a student to qualify in the category of SLD, the score on the Dibels would have to be in the 12th percentile or below.

29. The CDE SLD Guidelines state:

When building a body of evidence for an evaluation or reevaluation, it is considered best practice that at least one measure be norm-referenced in order to provide some consistency across schools and Districts in the interpretation of ‘significance.’ A score at or below the 12th percentile or 1.5 standard deviations below the mean may be considered to represent a significant deficit. The results of a focused and norm-referenced, diagnostic assessment, specific to the suspected area of need will not only assist with identification of a specific learning disability, but would provide valuable information for developing IEP goals and determining appropriate instruction/intervention. Exhibit 7 at 74-75.

30. [Special Education Teacher] administered the Measures of Academic Progress (“MAP”) test and the Colorado Measures of Academic Success (“CMAS”).

31. Concerning the CMAS, [Student]’s score was one point lower than it had been previously. [Special Education Teacher] credibly testified that a one-point difference

does not mean [Student] did not make progress; rather, the difference could have been due to margin of error or that [Student] was having a bad day.

32. The MAP assesses how a student is performing in comparison to content standards. Exhibit 3 at 11 and 12.

33. The summary of [Student]'s MAP data stated:

Math – [Student] scored a 228, 51st%tile, which shows achievement at the mean. She spent 51 minutes on the test with 2% rapid guessing. She showed growth in the 48th%tile, which is at the mean. Reading – [Student] scored a 209, 23rd%tile, which shows achievement below the mean. She spent 59 minutes on the test and had 3% rapid guessing. She showed growth in the 16th%tile, which is below the mean. [Student] works hard on standardized testing. This is an accurate reflection on her abilities.

Exhibit 3 at 11.

34. [Special Education Teacher] assembled classroom observations to collect a body of evidence about [Student]. She did not perform the observations herself. She also reviewed [Student]'s IEP goal progress using progress monitoring results.

35. [Social Worker], [Student]'s mental health provider and a social worker, provided classroom data by observing [Student] in her English Language Arts (“ELA”) class. *Id.* at 12.

36. [Special Education Teacher] credibly testified that it was important to have [Social Worker] observe [Student] because [Student] had social and emotional struggles. [Social Worker]'s observations did not pertain to [Student]'s reading abilities. [Special Education Teacher] credibly testified that it was not atypical to have a social worker perform a classroom observation of a student.

37. [Special Education Teacher] noted in the Evaluation that:

Decision-making and problem-solving skills become more challenging for [Student] when she is not able to keep pace with reading material in class, often leading to frustration. Additionally, new environments and changes can be overwhelming for [Student], increasing her anxiety, highlighting the need for clear communication regarding transitions, schedules, and adult support to ease these feelings. Exhibit 3 at 13.

38. [Special Education Teacher] noted that [Student] perseverates “without meaningful progress.” *Id.*

39. The inter-disciplinary Evaluation team met to determine [Student]’s eligibility for special education services. The team decided [Student] no longer qualified “based on a body of evidence for SLD in the area of reading fluency.” Exhibit 4. [Student]’s Parents disagreed and stated that they did not believe she had made enough progress.

40. [Special Education Teacher] credibly testified that there are many assessments that can measure reading fluency but that the team chose to use the Dibels. The Dibels showed that [Student] scored in the “red zone” which means she needed intensive support and was “at risk”. The red zone key states that “About 80% of students who score below the 20th percentile on criterion measure fall in this range.” Exhibit K.

41. [Special Education Teacher] did not omit any Dibels information from the Evaluation and credibly explained that the red color coding of the Dibels does not correspond to eligibility for special education.

42. [Special Education Teacher] credibly testified that she did not perform a phonological awareness screening test of [Student] because it was not needed since a basic reading assessment was performed.

[Assistant Director]

43. For four years [Assistant Director] has been the District’s Assistant Director of Special Education. [Assistant Director] has a master’s degree in special education and holds a Colorado special education generalist license.

44. Prior to becoming Assistant Director, [Assistant Director] spent 11 years as a special education teacher and has performed annual special education evaluations for 12 years. [Assistant Director] also daily supervises teachers who perform evaluations.

45. [Assistant Director] was not involved in [Student]'s assessments; rather, she supported the team as they were planning [Student]'s Evaluation and as they prepared for the eligibility meeting.

46. A general education teacher did not participate in the District's Evaluation, but [Assistant Director] credibly testified that [School]'s principal participated and she holds a general education license.

47. [Assistant Director] discussed the request for cognition testing. She credibly testified that she disagreed with performing cognitive testing of [Student] because cognitive assessments are used for students when intellectual disability is suspected, which was not the case with [Student].

48. [Assistant Director] further credibly testified that a cognitive assessment would not give the team information concerning the specific needs [Student] had in reading comprehension.

49. [Assistant Director] credibly explained that cognitive tests are long and create undue anxiety in a student. She explained that people get "stuck on" a student's full scale intelligence quotient ("FSIQ") instead of what the student's skill deficit is.

50. On April 7, 2025, [Assistant Director] sent [Student]'s Parents progress data on [Student]'s Social and Emotional Wellness goal from her IEP. As of the second trimester date of February 28, 2025, the goal was deemed "met." A narrative stated "[Student] is doing a great job with this goal. She is engaged in discussions, and readily applied the coping strategies taught to manage her anxiety." Exhibit 13 at 7.

51. Concerning the special education category of Other Health Impairment (“OHI”), [Assistant Director] credibly testified that the observations and rating scales such as the Conners test would note if [Student] had limited vitality and strength. She credibly testified that the team did not see evidence of OHI in [Student].

52. [Assistant Director] credibly testified two criteria are necessary for SLD, which are:

1. the child does not achieve academically for the child’s age or meet state-approved grade-level standards and exhibits significant academic skill deficit(s) in one or more of the areas identified below when provided with learning experiences and instruction appropriate for the child’s age or state-approved grade level standards, **and**
2. The child does not make sufficient progress to meet age or state-approved grade-level standards in the area(s) identified when using a process based on the child’s response to scientific, research-based intervention. Exhibit 4 at 2 (emphasis in original).

53. [Assistant Director] credibly testified that the assessments that determined whether [Student] met the first criterion for SLD were the KTEA, the CMAS, and the MAP testing.

54. [Assistant Director] credibly testified that [Student]’s responses to interventions and progress-monitoring using curriculum-based measures determined whether [Student] met SLD’s second criterion.

55. [Assistant Director] credibly testified that the body of evidence showed that [Student] did not qualify for special education, and that [Student] could receive reasonable educational benefit from general education alone. See Exhibit 4 at 1.

56. [Assistant Director] reviewed [Student]’s District Evaluation and credibly testified that it was “very comprehensive and well done and all areas were assessed appropriately.”

[Social Worker]

57. [Social Worker] is a school social worker and mental health provider who worked at [School] on contract for the 2024-2025 school year. [Social Worker] has a bachelor’s and a master’s degree in social work and is a licensed special service provider. She has worked as a social worker since 1993.

58. [Social Worker] performs eight to ten special education evaluations per year.

59. [Student] was part of [Social Worker]’s caseload and saw her weekly to work on her Social/Emotional Wellness goals. [Social Worker] credibly testified that she “adored” [Student], and that [Student] was kind, smart, responsible, and a good friend to her peers. [Social Worker] always looked forward to working with [Student]. She met with [Student] weekly.

60. [Social Worker] credibly testified that [Student]’s needed support in the areas of anxiety, fear, or apprehension. [Social Worker]’s goals for [Student] included helping her identify anxiety and provide her with coping skills.

61. [Social Worker] credibly testified that she informally observed [Student] at least weekly, and she observed [Student] always doing exactly what she was supposed to be doing in class, whether that be taking notes or working with her peers. [Social Worker] never observed symptoms of anxiety in [Student].

62. [Social Worker] performed a formal assessment of [Student] and found no anxiety.

63. [Social Worker] credibly testified that [Student] made “great” progress and met her goal of identifying the situation that caused her anxiety 80% of the time and then using coping strategies.

64. [Social Worker] credibly testified that she did not observe [Student] having difficulties retaining information and none of [Student]’s teachers expressed that concern to her.

65. In April of 2025 [Social Worker] started her portion of [Student]’s Evaluation. However, [Social Worker]’s contract with the District ended at the end of the school year and therefore she could no longer work with [Student] or be part of the Evaluation team.

66. Before [Social Worker]’s contract ended, she sent out the BASC and Brown assessments to [Student]’s ELA teacher, who knew [Student] well. The BASC stands for Behavior Assessment System for Children and assesses behavior, and the Brown Executive Function/Attention Scales assesses executive functioning. [Social Worker] also sent assessments to [Student]’s parents. [Social Worker] did not interpret the data because her contract was completed with the school at the time the assessments were interpreted.

67. [Social Worker] credibly testified that the tests are standardized with both tests comprised of “true/false” choices and standardized results. In other words, the person who gave the test does not necessarily have to be the person to interpret the data. See Exhibit 3 at 12. Because [Social Worker]’s contract had ended, [School Psychologist], discussed below, interpreted the assessments.

[School Psychologist]

68. [School Psychologist] is a School Psychologist with the District’s Central Evaluation Team (“Team”). The Team is a smaller group with expertise in assessments. [School Psychologist] has been in this role since August of 2024.

69. [School Psychologist] holds two bachelor’s degrees, one in Psychology; a master’s degree in Educational Psychology; and a Ph.D. in School Psychology. She is licensed by the CDE as a Special Services Provider and School Psychologist. [School Psychologist] also holds national certifications and is a licensed clinical Psychologist in the state of Colorado.

70. [School Psychologist] has worked full time in schools as a School Psychologist since 2018 and has been responsible for assessments, counseling, and crisis management.

71. [School Psychologist] conducts the Social/Emotional components of the special education evaluations and is part of eligibility teams.

72. The court found [School Psychologist] particularly credible.

73. [School Psychologist] became familiar with [Student] in May of 2025 when she completed the Social/Emotional component of [Student]'s Evaluation. [School Psychologist] authored the Social/Emotional portion of [Student]'s Evaluation.

74. [School Psychologist] credibly testified that Colorado uses the Response to Intervention model and the use of Tier 1 and Tier 2 interventions, including performing frequent monitoring to determine if there is significant weakness in academic scores.

75. [School Psychologist] performed a record review, reviewed [Student]'s background, reviewed qualitative assessments, and performed an approximately 40-minute interview with [Student]. [School Psychologist] observed [Student] while [Student] was being tested in speech/language for about 90 minutes. She did not observe [Student] in a classroom environment. [School Psychologist] interpreted the BASC and Brown tests, and she administered the Conners-4 and the RCMAS-2 assessments. [School Psychologist] did not speak with [Social Worker].

76. [School Psychologist] credibly testified that she looked at [Student]'s school absences, and they were all excused for things like outside mental health appointments and family visits, and nothing about [Student]'s absences concerned her.

77. [School Psychologist] credibly testified that she learned from her assessments that [Student] had many strengths. She credibly testified that [Student] was engaging, polite, and had the ability to talk about her strengths and weaknesses. She was open

about her mental health struggles. To [School Psychologist], it appeared that [Student]'s mental health was well managed at home and especially at school.

78. [School Psychologist] credibly testified that she knew [Student] had been diagnosed with anxiety and depression, had a therapist, and was medicated for her anxiety and depression, and that there was no additional information she needed.

79. Concerning [School Psychologist]'s interpretation of [Student]'s BASC scores, she credibly testified that two teachers noted significant concerns related to [Student] having performance anxiety. [School Psychologist] credibly testified that [Student]'s Parents' rating scales were within the average range.

80. [School Psychologist] noted that one teacher identified two "at risk" domains, atypicality and adaptability. She credibly testified that atypicality and anxiety were in the "at risk" level but that none of [Student]'s scores were clinically significant.

81. Concerning the Conners test and one rater who wrote that [Student] "gets tired or worn out from worrying," [School Psychologist] credibly testified that the statement did not concern her because it was only identified by one teacher and was not a pervasive concern across raters.

82. Concerning [Student]'s previous hospitalization for anxiety and depression, [School Psychologist] credibly testified that the team looked at whether [Student] had established current coping skills, and determined she had. She also testified that if there were a more acute crisis situation ongoing with [Student], [School Psychologist] would see more pervasive, significant elevations in her scores and the student interview would have been "very" different.

83. [School Psychologist] credibly testified that the Brown test results fell within the average range which indicated [Student] had intact executive functioning skills.

84. Concerning "Memory: Utilizing Working Memory and Accessing Recall," [School Psychologist] wrote, "[Student] obtained a t-score of 44 on the parent form and 54 on

the self-report form. This reflects an unlikely significant problem from parent perspective and unlikely significant problem from [Student]'s perspective." Exhibit 3 at 21.

85. [School Psychologist] credibly testified that the KTEA contains a writing component, and that [Student]'s scores were within the average range of same-age peers.

86. [School Psychologist] credibly testified that the team assessed [Student]'s executive functioning through the Brown, the Conners, and some domains of the BASC.

87. [School Psychologist] credibly testified that the RCMAS-2 measures a student's anxiety, and that [Student] rated moderately in physiological anxiety, which is how her body is telling her she is anxious.

88. Concerning the RCMAS-2, [School Psychologist] wrote in the Evaluation's Physiological Anxiety scale that "[Student] self-reported physiological anxiety that is moderately problematic as compared to others the same age." On the Worry Scale, [Student] "self-reported symptoms of worry that are no more problematic than others the same age." Finally, in the Social Anxiety scale, "[Student] self-reported social anxiety that is no more problematic than others the same age." Exhibit 3 at 25.

89. [School Psychologist] summarized [Student]'s RCMAS-2 results as follows:

overall, data from the RSMAS-2 as reported by [Student] indicate generally low domains of concern as related to anxiety, with the exception of the Physiological subscale. This suggests that [Student] may demonstrate some more tendencies of somatic concerns often associated with anxiety (e.g., headaches, stomachaches, etc.) than same-age peers. Data should be considered in conjunction with other data sources." *Id.*

90. [School Psychologist] credibly testified that [Student]’s worry and social domains were not problematic. Also, a validity scale is built into the RCMAS-2; therefore, [School Psychologist] had no concerns about the test results’ validity.

91. [School Psychologist] was not part of the team that made the decision not to perform cognitive testing, but that she agreed that cognition was not an area that needed to be tested. She credibly testified that she had no concerns with [Student]’s cognitive abilities.

92. [School Psychologist] credibly testified that a student’s cognitive ability “does not matter” in Colorado’s eligibility criteria for special education in the SLD category.

93. [School Psychologist] credibly testified there are downsides to performing cognitive testing if it is not warranted. She credibly testified that IQ testing is “very high stakes testing”; it can be “very impactful,” and it can be impacted by anxiety, distractibility, etc.

94. [School Psychologist] further credibly testified about the “Rosenthal Effect,” which is when a person’s expectation of a child can affect that child’s performance. For example, a teacher may assume a student will perform badly based on the student’s IQ score.

95. [School Psychologist] credibly testified that she had no concerns for [Student]’s verbal comprehension, problem solving, communication ability, processing speeds, or her working memory.

96. [School Psychologist] credibly testified that a student is eligible under OHI when the student has limited physical strength; for example, a student with cerebral palsy may not be able to carry his or her books.

97. The second factor to be eligible under OHI is limited vitality, which means looking at the student’s stamina. An example would be a student who was undergoing cancer treatment and could not make it through an entire school day due to limited vitality.

98. A third OHI criterion is limited alertness and [School Psychologist] saw nothing in the test results – specifically the BASC and the Brown – that made her suspect OHI as an appropriate eligibility category for [Student].

99. [School Psychologist] was on [Student]’s eligibility decision team. She credibly testified that [Student] could receive reasonable educational benefit from general education alone. [School Psychologist] credibly testified that she was not missing any information to come to that conclusion.

100. [School Psychologist] credibly testified that the team looked at [Student]’s current functioning at the time of the Evaluation, not her functioning from the previous August.

101. Concerning the possibility that [Student] was “masking” her feelings, [School Psychologist] credibly testified that the tests’ built-in validity scores would have been elevated and they were not, so the team determined [Student] was not masking her feelings.

[Interim Executive Director]

102. [Interim Executive Director] is the District Interim Executive Director of Special Education and has been since July of 2025. Prior to that she was the District’s Special Education Director.

103. [Interim Executive Director] oversees three Directors of Special Education and helps problem-solve and assist. [Interim Executive Director] holds a master’s degree in Special Education and a Director’s License in Special Education from the CDE.

104. [Interim Executive Director] was responsible for performing evaluations for nine years. She also supervised teams performing evaluations.

105. [Interim Executive Director] was a credible witness.

106. [Student] was brought to [Interim Executive Director]’s attention when her Parents requested an IEE at public expense. [Interim Executive Director] reviewed the District’s Evaluation.

107. [Interim Executive Director] did not believe [Student]’s Evaluation lacked any information and she agreed that [Student] was no longer eligible for special education and related services.

108. After reviewing [Student]’s test results in the District’s Evaluation, [Interim Executive Director] credibly testified that decoding is not a problem area for [Student]; that her scores were “solidly average.” [Student] scored in the 37th percentile and [Interim Executive Director] credibly testified that number is not low; that scoring in the 25th percentile is in the upper band of average. [Interim Executive Director] also credibly testified that comprehension is not an area of concern for [Student]; [Student] scored 58% which is a “nice, solid” score.

109. [Interim Executive Director] credibly testified that the Evaluation team would not need a nonsense word decoding test to determine [Student]’s special education eligibility. Also, [Student] scored in the average range in the KTEA nonsense word test.

110. [Interim Executive Director] credibly testified that the Dibels showed that [Student] has phonetic awareness. She also clarified that the Evaluation does not say that [Student] has no weaknesses in fluency, but that the body of evidence shows that [Student] was in the average range and her scores did not constitute a disability. [Interim Executive Director] credibly testified that the Evaluation team looks at more than one data point.

111. [Interim Executive Director] noticed there was no cognitive testing of [Student] and was not concerned by that fact because all the scores in the KTEA showed [Student] was in the average range.

112. [Interim Executive Director] credibly testified that cognitive testing does provide answers concerning whether a student has an SLD in reading.

113. [Interim Executive Director] credibly testified that every test that is timed will show difficulties with processing speeds, and that the Dibels is timed and part of the KTEA is timed.

114. [Interim Executive Director] credibly testified that not every individual piece of concerning data means that a student is a child with a disability. Here, it means that [Student] should not have timed tests, which speaks to a need for an accommodation, but not for specialized instruction.

115. [Interim Executive Director] credibly testified that the CDE does not look at cognitive data when evaluating for SLD. Rather, CDE has been persuaded by credible research to use a body of evidence model.

[Private Learning Specialist]

116. [Private Learning Specialist] is a private learning specialist with over 25 years of experience in student evaluations. She holds a master's degree in reading disabilities and reading evaluations. [Private Learning Specialist] is the Director of [Private Speech Language Company]. [Private Learning Specialist] has participated in multiple IEEs. Exhibit D.

117. The court deemed [Private Learning Specialist] an expert witness in literacy evaluations and assessments at hearing.

118. [Private Learning Specialist] works with school districts in Colorado with IEPs and 504 plans. She works with students who are eligible for special education in the SLD category.

119. On September 2, 2025, [Private Learning Specialist] performed a "Benchmarking Report" of [Student]. Exhibit C. [Private Learning Specialist] explained that a Benchmarking Report focuses entirely on reading. She testified that based on her intake with [Student]'s family, she might recommend a more comprehensive evaluation that would test phonics, fluency, comprehension, writing, and spelling.

120. [Private Learning Specialist] testified that she could not diagnose [Student] because the data was not comprehensive enough but that she could make recommendations.

121. [Private Learning Specialist] testified that a comprehensive educational evaluation would include assessment of receptive and expressive vocabulary, literacy, phonological testing, decoding reading, reading fluency, speed, and accuracy. Her team also checks silent and oral reading comprehension.

122. [Private Learning Specialist] gave [Student] the Woodcock Johnson Test of Achievement IV (“WCJ-IV”) and she scored average in word identification and passage comprehension and below average in word attack, in the 16th percentile. Exhibit C.

123. [Student] was below average in the “Elision” subtest of a phonological processing test called the CTOPP-2. *Id.* [Private Learning Specialist] testified there was a comparable assessment in the District’s Evaluation in the KTEA.

124. [Private Learning Specialist] assessed [Student] with the Burns and Roe Reading Inventory. Concerning fluency, [Private Learning Specialist] wrote “[Student] demonstrated slow and often choppy reading fluency needing extra [sic] to complete passages. She does struggle with Oral reading fluency.” [Student] scored in the 7th and 8th grade levels. Exhibit C.

125. [Student] scored 18 on a Decoding Survey. [Private Learning Specialist] testified that [Student] should have scored 28 and that she had multiple errors. [Private Learning Specialist] testified there was not a decoding survey in the District’s Evaluation.

126. [Private Learning Specialist] assessed [Student] with the Ganske Spelling Inventory. In the five subtests, [Student] scored 5/5 in long vowels; 4/5 in R-controlled vowels; 3/5 in other common long vowels, 4/5 in complex consonants; and 4/5 in abstract vowels. Exhibit C. [Private Learning Specialist] testified that 4/5 means

[Student] passed that portion of the test. She also testified that this test was a “screener” and not a comprehensive assessment. [Private Learning Specialist] testified there was nothing comparable in the District’s Evaluation.

127. [Private Learning Specialist] had [Student] perform a writing sample. See Exhibit C. [Private Learning Specialist] testified that the sample showed more areas of evaluation were needed, and that [Student]’s word recognition was at the 7th grade level.

128. [Private Learning Specialist] testified that she would have performed the WISC as part of a District evaluation. She also testified that she did not see any classroom observation of [Student]’s reading comprehension in the District’s Evaluation.

129. On cross-examination, [Private Learning Specialist] testified that [Student] was “all over the place, which may or may not warrant services.” [Private Learning Specialist] testified that [Student] had some really high scores, some in the middle, and some really low scores.

130. [Private Learning Specialist]’s ultimate analysis was that [Student] might need additional supports in reading; that the results could mean she needed IDEA instruction, but that more analysis was needed. However, the tests showed [Student] was “definitely” struggling even at the 7th grade level in some aspects of reading. [Private Learning Specialist]’s recommendations included further testing to confirm the presence of SLD and to “identify the student’s full learning profile.” Exhibit C.

131. [Private Learning Specialist] summarized:

The combination of below-average phonological awareness and decoding skills, alongside average comprehension, is a profile commonly observed [sic] incidents with characteristics of dyslexia. Given these findings, furthermore, a comprehensive evaluation is recommended to determine whether a specific learning disability in reading is present and to guide targeted intervention planning. *Id.*

132. [Private Learning Specialist] testified that she believed there were gaps in the District's Evaluation.

133. [Private Learning Specialist] testified she was not intimately familiar with CDE's criteria for SLD, and that SLD is different from dyslexia. She testified dyslexia is not allowed as a diagnosis that would necessarily qualify a student in SLD.

134. [Private Learning Specialist] testified that her practice does not perform cognitive assessments because they do not have a psychologist on staff.

135. [Private Learning Specialist] agreed that schools are supposed to find significant deficits of 12% or less for SLD.

136. [Private Learning Specialist] testified that she had not read the District's Evaluation when she performed the Benchmark Report, and that her report does not mention the District's Evaluation.

137. [Private Learning Specialist] did not speak with anyone at the District about [Student] and did not acquire a sense of how [Student] was functioning in the classroom. She agreed that it was possible that a weakness does not equal a disability.

[Advocate]

138. [Advocate] holds a Bachelor's degree in Psychology and a Master's degree in communication. She has a legal background and has worked for law firms since 2000. She founded [Advocacy Organization] in 2017 as a "Special Education Non-Attorney Advocate." Exhibit E.

139. [Advocate] helps families with children with educational needs through coaching, monitoring, and assisting parents in having their children's educational needs met. She also refers to herself as a "Master IEP Coach."

140. [Advocate] has worked with districts along the front range, including the District. She knows the Parents because she worked with both [Student] and her younger sister.

141. [Advocate] had a telephone conversation with [Assistant Director] and told her that to receive a full body of evidence the District needed to perform cognitive testing of [Student].

142. [Advocate] was frustrated that the District would not perform cognitive testing of [Student].

143. [Advocate] testified that she had no degrees in special education and was not a teacher nor a psychologist.

[Mother]

144. [Mother] is [Student]'s mother. [Mother] and [Student] are close and spend a lot of time together. [Mother] is very engaged in what her daughter is doing, her school, and her activities.

145. [Mother] was a credible witness.

146. [Mother] tucks [Student] into bed every night and it is [Student]'s time to share about her day.

147. The family is close and has dinner together nightly, where they put their phones away and talk. [Mother] credibly testified that no one knows her daughter better than her.

148. [Mother] credibly testified that [Student] has had disabilities that started in kindergarten; she had trouble reading and was not on pace with her peers. [Student]'s Parents read to her every night. They started having her read to them in first grade and it was "slow going."

149. To [Student]’s Parents, [Student]’s reading ability did not seem satisfactory, so they continued to read to her. [Mother] testified that audiobooks were identified as an accommodation to help [Student], which made sense to her Parents.

150. [Mother] credibly testified that in the middle of [Student]’s 6th grade year she came home every day anxious and worried. [Student]’s Parents did not understand what was happening. [Student] was tired and talked about feelings of anxiety.

151. [Student]’s anxiety worsened when she changed school buildings. She came home from school overwhelmed and exhausted. [Mother] credibly testified that [Student]’s educational stamina is strained because of the effort it takes for her to perform at school. [Student]’s teachers told [Mother] that [Student] was the hardest working student in fifth grade but her grades did not reflect that.

152. [Mother]’s concerns include the fact that no one has been able to explain why [Student] is the hardest working student in her classes but does not receive the grades that would normally be seen with students working that hard.

153. [Mother] credibly testified that [Student] gets anxious about reading and says it is not “her thing.” [Mother] also credibly testified that she has seen [Student] pretending that she can read.

154. [Mother] credibly testified that she and her husband were told that there was no reason to worry about [Student]’s reading because accommodations were in place for her. However, [Mother] credibly testified that she is very worried because [Student] is unable to understand the text in front of her.

155. [Mother] credibly testified that [Student]’s anxiety “went through the roof” when it was time to start the 2024-2025 school year, and that [Student] was very scared of school.

156. [Student]’s anxiety became so great that she was crying, could not calm herself down, and was up in the night vomiting. The following night she was also up in the

middle of the night vomiting, and it turned to blood. [Student] had also slashed her legs in the shower and had blood on her legs.

157. The next morning [Mother] called their pediatrician who told her to take [Student] to the Emergency Room. [Student] was making suicidal statements at this point. [Mother] credibly testified that they were on the “suicide” floor of this hospital for nine hours and that [Student] was completely unconsolable.

158. [Student] was a patient in a partial hospitalization program from August 7, 2024 through August 21, 2024. [Student] missed the first five school days due to the partial hospitalization. Exhibits I and M.

159. [School Counselor], a [School] counselor, was the liaison between [Mother] and her husband and [Student]’s teachers about the hospitalization. Exhibit N.

160. On December 7, 2024, [Private High School] had [Student] take a placement test to decide what level of classes to place her in. Her verbal performance rating was below average and her total cognitive skills were below average. Her grade equivalent in basic reading skills was grade 6.9, or the 9th month of sixth grade. This test was performed about halfway through [Student]’s eighth grade year. Exhibit R.

161. [Mother] credibly testified that she is frustrated because her daughter still cannot read and it feels like the family does not have answers.

162. [Mother] credibly testified that [Student] currently needs accommodations including breaks and audiobooks at [Private High School] and is struggling “mightily” in classes where she has to read.

163. [Mother] credibly testified that she feels like the District’s Evaluation paints a picture of [Student] as a student who is doing well when she really is not. [Mother] credibly testified that she has concerns about [Student]’s comprehension; that [Student] gets lost or confused by what she is reading.

164. [Mother] hired [Private Learning Specialist] because she had seen good results with her other daughter, and she wanted to get to the bottom of [Student]'s reading problem. [Student]'s Parents have paid for a weekly private reading tutor from kindergarten through the present.

165. [Mother] testified that her daughter still cannot read.

Discussion

Applicable law

The IDEA provides the requirements of an evaluation. 34 CFR §300.304 states:

(b) Conduct of evaluation. In conducting the evaluation, the public agency must—

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

(i) Whether the child is a child with a disability under § 300.8 and

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

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

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

(c) Other evaluation procedures. Each public agency must ensure that—

(1) Assessments and other evaluation materials used to assess a child under this part—

- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
- (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child 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;
- (iv) Are administered by trained and knowledgeable personnel; and
- (v) Are administered in accordance with any instructions provided by the producer of the assessments.

(2) 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.

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

(4) The child 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;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

§ 300.305 Additional requirements for evaluations and reevaluations.

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—

(1) Review existing evaluation data on the child, including—

- (i) Evaluations and information provided by the parents of the child;
- (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
- (iii) Observations by teachers and related services providers;

and

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

(i)

(A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or

(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(ii) The present levels of academic achievement and related developmental needs of the child;

(iii)

(A) Whether the child needs special education and related services;
or

(B) In the case of a reevaluation of a child, whether the child
continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and
related services are needed to enable the child to meet the measurable
annual goals set out in the IEP of the child and to participate, as
appropriate, in the general education curriculum.

(b) Conduct of review. The group described in paragraph (a) of this section may
conduct its review without a meeting.

(c) Source of data. The public agency must administer such assessments and
other evaluation measures as may be needed to produce the data identified
under paragraph (a) of this section...

Discussion

For all the reasons stated in this discussion, the court concludes as a matter of
law that the District met all of the IDEA's requirements for evaluations cited above.

[Special Education Teacher] was [Student]'s special education teacher for the
2024-2025 school year and saw her frequently. She was a credible witness, and her
credible testimony was that she did not observe [Student] struggle with cognition. She
also did not suspect cognitive impairment after reviewing a body of evidence about
[Student]. [Special Education Teacher] credibly testified that she did not observe
[Student] having cognitive challenges that would rise to the level of needing a cognitive
assessment in the Evaluation. Notably, all of [Student]'s grades were "C"s or higher in
her core content classes, evidencing that a cognitive impairment was not the cause of
[Student]'s reading struggles. [Special Education Teacher] performed the KTEA which
showed that [Student] scored in the average range in all areas but two in which she
scored below average. That information, without more, does not create a body of
evidence suggesting that the Evaluation was not sufficiently comprehensive in
cognition.

[Special Education Teacher] next credibly testified that there was no reason to administer the KTEA Decoding Fluency subtest because [Student]’s decoding score in comprehension was well above the 12th percentile, which is CDE’s “cut-off” percentile. [Special Education Teacher] also explained she witnessed [Student] responding well to the supports she was receiving at [School]. In addition to [Special Education Teacher] observing [Student] in class as her special education teacher, [Social Worker], [Student]’s mental health provider and a social worker, contributed to the Evaluation by observing [Student] in her English Language Arts (“ELA”) class. She did not note any concerns.

[Special Education Teacher] further credibly testified that she did not witness [Student]’s social/emotional needs or anxiety impacting her access to education. [Special Education Teacher] also performed a comprehensive record review of [Student] as part of the Evaluation.

[Special Education Teacher] performed the Dibels test and credibly testified that it did not show that [Student] qualified for special education in the SLD category based on CDE guidance. [Student] scored in the “red zone” which meant she needed intensive support and was “at risk”, but the credible testimony in the record is that the “red” coding of the Dibels test does not mean a student qualifies for Special Education.

[Special Education Teacher] further credibly testified that [Student] was tested in areas potentially impacted by dyslexia, including reading fluency, basic reading, and reading comprehension, and nothing concerning was indicated. [Special Education Teacher] administered the MAP and CMAS tests to [Student]. The MAP showed percentiles below the mean but above 12% in reading areas. The CMAS showed a one-point lower score than her previous test, which [Special Education Teacher] credibly explained could be due to [Student] having an off day, and that a one-point difference could be part of the margin of error for the test. [Special Education Teacher] also reviewed [Student]’s IEP progress monitoring results as part of the Evaluation, which also contributed to the body of evidence upon which the team relied.

Based on [Special Education Teacher]’s role in the Evaluation, she agreed that [Student] no longer qualified for special education in the category of SLD but did have a

“need for clear communication regarding transitions, schedules, and adult support to ease these feelings [of anxiety].”

[Assistant Director], the District’s Assistant Director of Special Education has a master’s degree in special education and holds a Colorado special education generalist license. [Assistant Director] worked for 11 years as a special education teacher and performed numerous special education evaluations spanning 12 years. [Assistant Director] also credibly testified that cognitive testing was not needed because the data did not show that [Student] might have an intellectual disability. As mentioned above, [Student] received grades of C or higher in her core content classes, and the credible testimony in the record is that a student with a cognitive impairment would not be able to achieve at that level. [Assistant Director] also credibly testified that cognitive testing would not provide data about [Student]’s needs in reading comprehension, which are Parents’ main concern. [Assistant Director] also credibly testified that she did not see any data that indicated [Student] qualified for special education in the OHI or the SLD categories, and she cited the specific tests she relied upon in making those conclusions. Finally, [Assistant Director] reviewed [Student]’s Evaluation and credibly testified that it was “very comprehensive and well done and all areas were assessed appropriately.”

[Social Worker], the social worker, met with [Student] weekly throughout the entire school year to work on her Social/Emotional Wellness goals. She credibly testified that she never observed symptoms of anxiety in [Student]. She also performed a formal assessment of [Student] which found no anxiety.

Of all the witnesses, the court found [School Psychologist]’s testimony particularly credible and persuasive. [School Psychologist] authored the Social/Emotional portion of the Evaluation. [School Psychologist], a Ph.D. level School Psychologist with years of experience in Colorado and other states, interpreted the results of the BASC and the Brown tests that [Social Worker] had given [Student]. [Social Worker]’s contract had ended when the team completed the Evaluation, and therefore [School Psychologist] interpreted the results. The credible testimony in the record is that the BASC and Brown tests are entirely objective, “true/false” tests, and thus the person who administered the test does not have to be the same person who interprets the results. The court concludes that [School Psychologist] was well qualified

to interpret the tests, and she found no concerning data. Indeed, [Student]'s Brown test results fell within the average range which indicated [Student] had intact executive functioning skills.

[School Psychologist] administered [Student] the Conners-4 and the RCMAS-2 tests and likewise did not see any concerning results. [School Psychologist] performed a record review, reviewed [Student]'s background, reviewed [Student]'s qualitative assessments, and interviewed [Student] for 40 minutes. She also observed [Student] for 90 minutes while [Student] was being tested. [School Psychologist] credibly testified that [Student]'s Parents' rating scales were within the average range. Concerning the KTEA test, [School Psychologist]'s credibly explained that the KTEA contains a writing component, and that [Student]'s scores were within the average range of same-age peers. [School Psychologist] also agreed with other witnesses, whose testimony she did not hear, that cognitive testing was not warranted by the data for [Student], and that a student's cognitive ability is not part of Colorado's eligibility criteria for SLD. [School Psychologist], again, without hearing any other witness testimony, credibly testified that [Student] did not qualify under the OHI category. Finally, [School Psychologist] credibly and persuasively testified that [Student] could receive reasonable educational benefit from general education alone. Significantly for purposes of this case, [School Psychologist] credibly testified that she was not missing any information to come to that conclusion.

[Interim Executive Director] is the District Interim Executive Director of Special Education. She was brought in to review the Evaluation after Parents requested an IEE at public expense. [Interim Executive Director] has a master's degree in special education and has been responsible for performing evaluations for nine years, as well as supervising teams performing evaluations. The court found [Interim Executive Director] to be a credible witness. [Interim Executive Director] credibly and persuasively testified that she reviewed the Evaluation and it was not lacking any information.

Turning to Parents' witnesses, [Mother], [Student]'s mother, was credible and very concerned about her daughter's reading ability. Unfortunately, her concern is not the criteria the court must use when assessing whether the Evaluation was sufficiently comprehensive. Rather, the IDEA's regulations, stated above, provide the criteria.

Also, while [Private Learning Specialist] and [Advocate] provided information that is probably useful, the court gives their testimony less weight than the District's witnesses' testimony because neither [Private Learning Specialist] nor [Advocate] are or have been special education teachers, do not hold special education licenses in Colorado, and, in [Advocate]'s case, has no education whatsoever in the field of special education and has never been a teacher. The court concludes that they are not as familiar as the District's witnesses with what the CDE requires or with what the IDEA requires when it comes to the sufficiency of evaluations. The court concludes that the District's witness's combined vast experience in the field of special education and sufficiently adequate evaluations must be given greater weight, and the weight of their credible and persuasive testimony leads the court to conclude that the District's Evaluation of [Student] was adequately sufficient for all the reasons cited above.

Decision

For all the reasons discussed above, it is the decision of the ALJ that the District's Evaluation of [Student] was sufficiently adequate pursuant to the IDEA's requirements, and for that reason, Parents' request for an IEE at public expense is denied.

Done and Signed: February 11, 2026

/s/ Tanya T. Light

Administrative Law Judge