

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 [REDACTED] Student, by and through Parents [REDACTED]
4

No. 26C-DP-024-ADE

5 **Petitioners,**
6 v.
7 Paradise Valley Unified School District

**ADMINISTRATIVE LAW JUDGE
DECISION**

8 **Respondent.**

9

HEARING: December 10, 2025 at 9:00AM and January 16, 2026 at 9:00AM¹

10 **APPEARANCES:** [REDACTED] pro se, appeared on behalf of [REDACTED]
11 [REDACTED] ("Student"). Attorney Jessica Sanchez, Esq. of UDALL SHUMWAY, appeared on
12 behalf of Paradise Unified School District ("Respondent" or "District").

13 **WITNESSES:**²

14 [REDACTED]
15 Mary Matthews – **Special Education Teacher**
16 Martha Jacobs – **School Psychologist**
17 Gianna Colonna – **Special Education Director**

18 **ADMINISTRATIVE LAW JUDGE:** Nicole Robinson

19 **HEARING RECORD:**

Google Meet Recording was the official record of the hearing.³

20 **EXHIBITS ADMITTED INTO EVIDENCE:** Special Education Due Process
21 Complaint ("COMPLAINT") dated October 14, 2025; The NOTICE OF HEARING dated
22 October 16, 2025; Respondent Motion to Dismiss dated October 21, 2025; Order
23 Dismissing Complaint Items 1 through 4 dated October 27, 2025; Respondent's
24 Response to Due Process Complaint dated October 28, 2025; Petitioner's Exhibits A1,
25 A3, B2, B5, C1 through C8, D1 through D3, D4 (pdf pages 29, 34-38), D5 through D7,
26 D9 through D10, E3, E5, E8 through E9; Respondent's Exhibits 1 through 9, 13;
27 ORDERS GRANTING CONTINUANCE; and Petitioner and Respondent's Closing Briefs were
28 admitted into the evidentiary record.

29

¹ The hearing record was held open and the record was closed on February 4, 2026, for the receipt of
closing statements.

30 ² Throughout this decision, proper names of witnesses are not used to protect confidentiality of Student
and to promote ease of redaction. Pseudonyms (appearing in bold type) will be used instead.

³ The parties stipulated that the Google Meet recording would be the official record of the proceedings.

Petitioner brings this due process action on behalf of Student, alleging that Respondent violated the Individuals with Disabilities Education Act (“IDEA”), constituting both procedural and substantive errors.

The law governing these proceedings is the IDEA found at 20 United States Code (“U.S.C.”) §§ 1400-1482 (as re-authorized and amended in 2004),⁴ and its implementing regulations, 34 Code of Federal Regulations (“C.F.R.”) Part 300, as well as the Arizona Special Education statutes, Arizona Revised Statutes (“ARIZ. REV. STAT.”) §§ 15-761 through 15-774, and implementing rules, Arizona Administrative Code (“ARIZ. ADMIN. CODE”) R7-2-401 through R7-2-406.

PROCEDURAL HISTORY

On or about October 9, 2025, Petitioner filed a COMPLAINT with the Arizona Department of Education (“Department”) that alleged nine violations of the IDEA against Respondent. On October 16, 2025, the Department issued a NOTICE OF HEARING setting the matter for a prehearing conference at 11:00 a.m. on November 7, 2025, and a hearing at 9:00 a.m. on November 24, 2025, before the Office of Administrative Hearings (“OAH”), an independent state agency in Phoenix, Arizona. On October 27, 2025, an ORDER GRANTING THE MOTION TO DISMISS COMPLAINT ISSUES ONE THROUGH FOUR was issued. On November 7, 2025, Petitioner failed to appear at the prehearing conference and an ORDER SETTING THE MATTER FOR HEARING VIA GOOGLE MEET was issued for the scheduled hearing on November 24, 2025. On the day of the hearing, November 24, 2025, Petitioner requested a continuance which was granted. On November 24, 2025, OAH issued an ORDER GRANTING CONTINUANCE AND NEW HEARING DATE WITH GOOGLE MEET LINK FOR VIRTUAL APPEARANCE setting the matter for hearing at 9:00 a.m. on December 10, 2025, which was held and then the matter continued at 9:00 a.m. on January 16, 2026, where the hearing concluded.

ISSUES AT HEARING

⁴ By Public Law 108-446, known as the “Individuals with Disabilities Education Improvement Act of 2004,” IDEA 2004 became effective on July 1, 2005.

Based on a review of the DUE PROCESS COMPLAINT,⁵ the Administrative Law Judge (“ALJ”) determined the following issues were raised for determination at the due process hearing:

(1) Academic neglect and denial of specialized instruction.

- a. Resource room placement had been unproductive and Student often assisted peers instead of receiving instruction.
- b. Resource room sessions functioned as unstructured “homework time,” not targeted intervention, representing a denial of a Free Appropriate Public Education (“FAPE”).

(2) Failure to recognize full disability profile. The District failed to properly classify Student under appropriate eligibility categories, such as: Autism Spectrum Disorder (“ASD”), Specific Learning Disability (“SLD”), Multiple Disabilities (“MD”), and/or Severe Emotional Disturbance (“ED”).

- a. The District ignored prior testing which showed that Student scored within one point of the gifted range in verbal reasoning, demonstrating a twice exceptional (“2E”) profile.

(3) Lack of collaboration and procedural safeguards. The District ignored a 30-page comprehensive Individualized Education Program (“IEP”) Goal Formulation submitted by Petitioner which outlined 20 measurable goal categories and 60 goals.

- a. Draft IEPs were withheld, parental participation restricted, and outside-provider input excluded.

(4) Violation of Child Find and FAPE.

- a. The District failed to identify and address all suspected disabilities, denied trauma-informed supports, and refused necessary reevaluations. These omissions represented systemic non-compliance and denial of FAPE.⁶

REQUESTED REMEDIES

⁵ See DUE PROCESS COMPLAINT.

⁶ *Id.*

As remedies, Petitioner requested:

- Implementation of Petitioner's 30-page IEP goal formulation;
- Instructional and service delivery corrections;
- Comprehensive reevaluation and accurate disability classification;
- Inclusion and cohort restoration;
- Trauma-informed reunification plan;
- Whole-child approach and outside-provider inclusion;
- Transition and placement plan;
- Financial and enrichment support; and
- Procedural and structural safeguards.⁷

The Tribunal has considered the entire hearing record, including witness testimony and admitted exhibits, and now makes the following Findings of Fact, Conclusions of Law, and Ruling finding that Petitioner has failed to demonstrate that Respondent procedurally and/or substantively violated the IDEA through the aforementioned allegation(s) set forth in the COMPLAINT. Petitioners' requested remedies are denied. The credible and material evidence of record is as follows:

FINDINGS OF FACT

BACKGROUND

1. Student was born on July 15, 2016, at 40 weeks gestation with a birth weight of 4 pounds, 12 ounces.⁸ As an infant, Student struggled with reflux, rashes, and an umbilical hernia.⁹

2. Student spoke her first word at 14 months and was late to potty train.¹⁰ Student had a history of seasonal allergies and was prescribed a daily steroid and rescue inhaler, as needed.¹¹

⁷ *Id.*

⁸ See Respondent Exhibit 3 at PVUSD066.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

3. Student attended preschool for two years in Arkansas before attending Kindergarten at Whispering Wind Academy in the Paradise Valley Unified School District located in Phoenix, Arizona.¹²

4. On December 8, 2021, Student participated in a speech language evaluation which determined that she was eligible for special education under the Speech Language Impaired category and received speech therapy for articulation delays.¹³

5. On April 8, 2022, Mother switched Student into the Mandarin Immersion Program at Whispering Wind where math and science instruction were only provided in Mandarin.¹⁴

6. On May 16, 2022, Student was evaluated and diagnosed with Attention Deficit Hyperactivity Disorder (“ADHD”) by pediatrician Donni Fleischaker, M.D.

7. Since May 2023, Student participated in counseling via telemedicine appointments to address social/emotional/behavioral concerns.¹⁵ Behavioral concerns were noted and upon Mother’s request, Student repeated Kindergarten.¹⁶

8. In October 2023, Student was assessed by an orthopedic doctor who determined that Student experienced hypermobility/general ligamentous laxity of an undiagnosed cause.¹⁷ This doctor provided Student a school note that recommended Student modify activity at school if they experienced pain or joint instability and also recommended school transportation be provided.¹⁸

9. During the 2022-2023 and 2023-2024 academic years, Student was on chronic illness status due to a variety of medical issues and the District documented Student’s chronic absenteeism.¹⁹

10. During Student’s second year of Kindergarten, mid-year Mother requested Student be promoted to the first grade.²⁰ On November 28, 2022, despite the District’s

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at PVUSD067.

1 recommendation to have Student continue in Kindergarten, Student was moved to the
2 first grade.²¹

3 11. On November 7, 2023, the IEP team proposed a psychoeducational
4 evaluation and updated speech language evaluation, however, Mother did not provide
5 written consent for the evaluation.²²

6 HEARING EVIDENCE

7 12. While Student was in the second grade, she was referred for an
8 evaluation by the IEP team and Mother.²³ At the time, Student received small group
9 intervention in reading, writing, math, and behavior and was below benchmark on
10 district assessments in reading and math.²⁴ Student struggled with learning Mandarin
11 and was below peers in the class and this difficulty contributed to her frustration and
12 inability/willingness to follow directions.²⁵ The IEP team's specific areas of concern
13 included: cognitive, academic achievement, communication, and
14 social/emotional/behavioral.²⁶ Particularly, the IEP team agreed to an evaluation to rule
15 out the following eligibilities: SLD, Other Health Impairment ("OHI"), and/or Speech or
16 Language Impairment.²⁷

17 13. On September 6, 2024, the District issued an Evaluation/Multidisciplinary
18 Evaluation Team ("MET") Meeting Notice to inform the Team of the September 12,
19 2024, evaluation meeting.²⁸

20 14. On September 12, 2024, the District conducted a psychoeducational
21 evaluation and Student was determined eligible for special education under the OHI
22 category due to the impact of ADHD on her learning.²⁹ In particular, Student met the
23 following requirements for a primary OHI classification:

- 24 a. Student had a health impairment that limited her strength, vitality, or
25 alertness (including a heightened alertness to environmental stimuli that

26 ²¹ *Id.*

27 ²² *Id.*

28 ²³ See Respondent Exhibit 1 at PVUSD001.

29 ²⁴ *Id.*

30 ²⁵ *Id.* at PVUSD005.

²⁶ *Id.* at PVUSD001.

²⁷ *Id.*

²⁸ *Id.* at PVUSD022.

²⁹ *Id.* at PVUSD001.

1 results in limited alertness with respect to the educational environment)
2 that was due to chronic or acute health problems including but not limited
3 to asthma, ADHD, diabetes, epilepsy, or heart conditions. The health
4 impairment adversely affected performance in the educational
5 environment;

- 6 b. The health impairment was verified by a qualified professional; and
7 c. The District evaluated Student in all other areas related to the suspected
8 disability.

- 9 i. Note: A student shall not be determined to be a student with a
10 disability if the determinant factor is lack of appropriate instruction
11 in language arts (including the essential components of reading
12 instruction), lack of appropriate instruction in math, or limited
13 English proficiency.³⁰

14 15. On September 18, 2024, the District issued a Prior Written Notice
15 (“PWN”), which documented that the team met on September 12, 2024, to conduct a
16 psychoeducational evaluation of Student.³¹ The PWN provided the reasons why
17 Student was not considered eligible under the SLD or the ASD categories, which stated
18 the following:

- 19 a. SLD – Although Student demonstrated an average ability to learn and
20 significant academic deficits, the team was unable to determine eligibility
21 under the category of SLD due to the consideration of exclusionary
22 factors. Due to chronic illness and the impact of her attention on her
23 participation in the classroom on days she was present, the team could
24 not rule out lack of instruction as a possible reason for the academic
25 deficits present.
- 26 b. ASD – The team utilized observation, speech/language assessment,
27 teacher and parent input, and rating scales to look for patterns of behavior
28 and characteristics indicative of ASD. While some social difficulties were
29 noted with peers related to impulsivity, and some sensory and behavioral

30 ³⁰ *Id.* at PVUSD019.

³¹ *Id.* at PVUSD021.

1 characteristics were noted by Mother, Student did not meet the criteria for
2 eligibility under the category of autism based on the definition under IDEA.
3 Her language scores (expressive, receptive, and pragmatic) all fall within
4 the average to high average range. Student was observed to interact
5 appropriately with same-age peers in the classroom, participate in pretend
6 play appropriately, engage in reciprocal social conversations, demonstrate
7 empathy for others, and identify the emotions of others. Besides the
8 occasional difficulty moving from one activity to another, particularly from
9 preferred to non-preferred tasks, there were no restrictive and repetitive
10 behaviors observed to impact her in the classroom setting.³²

11 16. On September 27, 2024, the District issued an IEP Meeting Notice to
12 Petitioner which informed her about the October 9, 2024, IEP meeting.³³

13 17. On October 9, 2024, an IEP team meeting was held, resulting in the
14 creation of an IEP for Student.³⁴ Petitioner participated at the meeting on behalf of
15 Student.³⁵ The IEP included that Student would receive specialized instruction in the
16 resource classroom in the areas of reading comprehension, basic reading, reading
17 fluency, written expression, math problem solving, as well as social
18 emotional/behavioral support in the general education classroom. Student's special
19 education primary category was OHI. Student would be in the resource room five days
20 a week for 20 minutes each day for math and for 20 minutes each day for
21 reading/writing. Student would also receive support for speech language services once
22 a week for 15 minutes.³⁶ The IEP addressed the Least Restrictive Environment ("LRE")
23 which stated that Student would remain with her non-disabled peers in the general
24 education classroom for the large majority of her day and would not miss significant
25 instruction and have ample time for social interaction.³⁷ Also, the IEP provided that
26 Student would be moving to the third grade the following year, although she was below

27
28 ³² *Id.*

³³ See Respondent Exhibit 4 at PVUSD110.

³⁴ See Respondent Exhibit 4.

³⁵ *Id.* at PVSUD108.

³⁶ *Id.* at PVSUD093.

³⁷ *Id.* at PVSUD106.

grade level as a second grader and required a small group to learn to the best of her ability.³⁸ The team described that Student learned best with hands on learning where she could move around, role play, participate in projects, and be creative, and noted that she thrived on building connections with adults.³⁹

18. On October 10, 2024, the District issued a PWN that documented the proposals and outcome from the October 9, 2024 IEP meeting.⁴⁰

19. An Independent Educational Evaluation (“IEE”) was conducted by Dr. Valerie Hoffman, Psy.D. over the following dates, March 18, 2025; March 26, 2025; and April 22, 2025.⁴¹ Dr. Hoffman’s conclusion stated, in pertinent part, as follows:

In summary, the results were variable, while the questionnaire results from Mother and teachers were indicative of several autism related symptoms, the direct testing and observations were not consistent with a diagnosis. Therefore, a diagnosis of ASD is not fully supported at this time. Differentiating between symptoms of autism and trauma presents a unique challenge. Nonetheless, [Student] should continue to be monitored and if autism is indeed part of the clinical picture, that will become more clear over time. However, the primary challenge for [Student] may be best explained within the lens of development trauma, which may include a discrete event as well as ongoing family conflict, and challenges related to consistency in caregiving. [Student] will benefit from increased consistency in her daily routine, such as attending school on a consistent, regular basis, as well as the opportunity to participate in trauma-informed therapy. It will be very important for [Student] to have consistent access to one therapist, with whom she can learn to trust.⁴²

School Psychologist testified that the District did not need to adopt the IEE but it must be fully considered by the team.

20. On August 13, 2025, the District issued a Meeting Notice to Petitioner informing her about a MET meeting on August 18, 2025.⁴³

21. On August 18, 2025, the MET meeting took place, lasted approximately two hours with about 10 people present. Mother did not bring any outside providers to this meeting. Mother testified that she requested teachers from the previous year to

³⁸ *Id.* at PVSUD108.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See Respondent Exhibit 2.

⁴² *Id.*

⁴³ See Petitioner Exhibit D9.

1 attend but they were not present. Mother further testified that she argued about the
2 disability category and thought the meeting was unproductive. Special Education
3 Director testified that, by the end of the meeting, an agreement had not been reached.
4 Shortly after this meeting, the District issued an Evaluation/MET Meeting Notice to
5 Petitioner that informed her about the follow-up MET meeting on August 25, 2025.⁴⁴

6 22. On August 25, 2025, a follow-up MET meeting took place and lasted
7 approximately 2.5 hours discussing primarily eligibility classifications and the IEE.
8 Mother did not bring any outside providers to this meeting.

9 23. On September 4, 2025, the District issued a PWN that documented the
10 proposals and outcome from the August 18 and August 25, 2025 MET meetings.⁴⁵
11 Based on the information reviewed and the determination of the team, the district
12 proposed that Student was eligible for special education support and services as a
13 student with an OHI classification due to ADHD.⁴⁶ A summary of the other
14 considerations and observations included, in pertinent part, as follows:

15 Student also qualified for speech language therapy as a related service.
16 Student's executive functioning deficits significantly impact her learning.
17 Specifically, Student struggled with behavioral control, emotional control,
18 and cognitive regulation. Student struggled to control impulsive behaviors,
19 staying on task, initiating tasks independently, organization, and self-
20 monitoring. Student has a tendency to become frustrated during peer
21 interactions, which has led to aggression and conduct problems. Student
22 seeks frequent movement and needs frequent redirection to remain on
23 task. The team surmised that Student did not meet the eligibility criteria
24 for special education services under the categories of autism, specific
25 learning disability, orthopedic impairment, emotional disability, or multiple
26 disability. The PWN provided reasoning why the team did not classify
27 Student in the other categories that Mother recommended.⁴⁷

28 School Psychologist testified that a reevaluation was not appropriate during this
29 time because there was enough data to draft an IEP.

30 24. On September 24, 2025, the District issued an IEP Meeting Notice to
Petitioner that informed her about the October 7, 2025, IEP meeting.⁴⁸ The Meeting

⁴⁴ See Respondent Exhibit 4 at PVUSD086.

⁴⁵ *Id.* at PVSUD087.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See Respondent Exhibit 7 at PVUSD159.

1 Notice stated the purpose was “To review existing data, including the results of the IEE,
2 and determine continued eligibility and need for special education and related services.
3 To review and revise the IEP and consider any additions or modifications to the special
4 education and related services were needed to enable the child to meet the measurable
5 annual goals set out in the IEP.”⁴⁹

6 25. On October 7, 2025, an IEP team meeting was held. Mother appeared at
7 the meeting and did not bring any outside providers. Mother testified that she arrived to
8 the meeting on time and brought binders of documentation that she drafted for the
9 meeting. The binders included a proposed goal packet which was approximately 30
10 pages long and included about 60 individual goals that Mother wanted the team to
11 consider and implement. Special Education Director testified that Mother only stayed at
12 the IEP meeting for approximately 18 minutes and then left, stating she was not ready
13 for the meeting. Mother confirmed she left the meeting and left her prepared
14 documentation with the team for review. Special Education Director testified the team
15 went over the goal packet, line-by-line, and incorporated some of the relevant goals into
16 the new IEP. Special Education Director testified that one to four goals per skill area
17 were manageable, but 60 goals was excessive. Special Education Director further
18 testified that it was paramount that goals be realistic so they could be met within a
19 year’s timeframe. Special Education Teacher testified that all of Petitioner’s 60 goals
20 should not be implemented because the sheer volume would take away from Student’s
21 general education instruction and limit her peer interactions.

22 26. On October 9, 2025, the District issued a PWN that documented the
23 proposals and outcome from the October 7, 2025 IEP meeting.⁵⁰ The District proposed
24 to implement the annual IEP on October 13, 2025.⁵¹ The annual IEP considered all of
25 Petitioner’s 60 proposed goals and implemented eight of them that reflected grade-level
26 standards and Student’s present levels of functioning.⁵² The team decided to remove
27 Student from the Mandarin program and move her to a non-dual immersion classroom

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29 ⁴⁹ *Id.*

⁵⁰ See Respondent Exhibit 7 at PVUSD160.

30 ⁵¹ *Id.*

⁵² *Id.*

1 because the team felt it was urgent to provide instruction in her native language.⁵³ After
2 2.5 years in the Mandarin program, Student only knew four words in Mandarin and her
3 inability to comprehend Mandarin was affecting her math grade.⁵⁴

4 27. Also on October 9, 2025, Petitioner filed a DUE PROCESS COMPLAINT. Due
5 to the filing, the October 7, 2025 IEP was not implemented and the prior IEP dated
6 October 9, 2024, remained in effect.

7 **ADDITIONAL EVIDENCE**

8 28. Mother testified that that the resource room was unproductive. Mother
9 believed Student was constantly distracted during instruction in the resource room
10 because of a boy student. Mother argued that when Student was in the resource room
11 that she just sat in front of a computer. Mother testified that Student's pediatrician
12 recommended that Student "utilize the resource room [and] be granted a one-on-one
13 aid to keep her on task."⁵⁵ Special Education Teacher, Student's teacher, met Student
14 in October 2024 and understood her academic goals. Special Education Teacher
15 testified that she engaged with her students using the same methodology every day.
16 An example of a day in her resource classroom with her five students would resemble
17 the following: all students sat at her horseshoe table for group instruction, eventually the
18 students transitioned to one-on-one independent instruction, and while students focused
19 on their own work, Special Education Teacher would assist, and if needed, refocus the
20 other students. Special Education Teacher explained that 95% of the time, the students
21 did not use computers in her room. Special Education Teacher testified that Student
22 had never been asked to assist her peers. Specifically, with Student, Special Education
23 Teacher used a multi-sensory approach, for instance, math scavenger hunts, I-Excel
24 questions put around the room, games, and other activities. Special Education Teacher
25 testified that Student's progress in the skill areas was as follows:

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27
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29

⁵³ *Id.*

30 ⁵⁴ *Id.*

⁵⁵ See Petitioner Exhibit C5 at pdf page 42.

Skill Area	3 rd Update Date	Mastery	4 th Update Date	Mastery
Language Arts: Read and decode words ⁵⁶	05/23/2025	40%	09/26/2025	60%
Language Arts: Read with 40 words correct per minute ⁵⁷	05/22/2025	34 WCPM	09/26/2025	47 WCPM
Language Arts: After being read a book – retell the story ⁵⁸	05/22/2025	58%	09/26/2025	66%
Math: Solve one-step addition and subtraction word problems ⁵⁹	05/22/2025	45%	09/26/2025	80% Goal Met
Communication: Produce vocalic -or and -er and voiced and voiceless 'th' ⁶⁰	05/22/2025	47%	09/25/2025	86% Goal Exceeded

29. Special Education Teacher testified to her concern regarding Student's excessive absences. Special Education Teacher further testified how little she saw Student due to her lack of attendance and that when she came to class they had to play catch-up. Special Education Teacher contended that with steady attendance and consistency, Student would achieve even more progress towards her goals.

30. Also, Mother testified that the District ignored prior testing that showed Student scored within one point of the gifted range in verbal reasoning, demonstrating a twice-exceptional profile and should be considered for the gifted program. Mother argued that Student only needed to be gifted in one area to receive those services. School Psychologist testified that a standard score of 95 falls within the "average" range which was different than the percentile rank which was much higher. School Psychologist further testified that to qualify as "gifted" required taking specialized testing and other factors went into that program which were outside of the IDEA.

ADDITIONAL CONSIDERATIONS

31. As to Student's absenteeism, for the 2024-2025 school year, Student accrued 69 excused absences and 23 unexcused absences.⁶¹ For the 2025-2026

⁵⁶ See Respondent Exhibit 6 at PVUSD134.

⁵⁷ *Id.*

⁵⁸ *Id.* at PVUSD135.

⁵⁹ *Id.* at PVUSD136.

⁶⁰ *Id.* at PVUSD136 -PVUSD137.

⁶¹ See Respondent Exhibit 8 at PVUSD163.

1 school year, from August 2025 to November 13, 2025, Student accrued 22 excused
2 absences and 8 unexcused absences.⁶²

3 32. As to the OHI classification, the majority of the team believed this was the
4 appropriate classification for Student due to the reasons provided in the PWN dated
5 September 4, 2025, which included detailed reasons why the other classifications were
6 rejected.⁶³ Special Education Director testified that OHI was appropriate because that
7 classification included all documented disabilities, such as: reading, writing, math,
8 social/emotional/behavioral, and occupational/speech/physical therapies.

9 **CONCLUSIONS OF LAW**

10 **APPLICABLE LAW**

11 1. Congress enacted the IDEA to ensure that all students with disabilities are
12 offered a FAPE that meets their individual needs.⁶⁴ The IDEA does not define the level
13 of education that must be provided, except that it must be “reasonably calculated to
14 enable the student to receive educational benefits.”⁶⁵ Through the IDEA, Congress has
15 sought to ensure that all students with disabilities are offered a FAPE that meets their
16 individual needs.⁶⁶ These needs include academic, social, health, emotional,
17 communicative, physical, and vocational needs.⁶⁷ To do this, school districts must
18 identify and evaluate all students within their geographical boundaries who may be in
19 need of special education and services. The IDEA sets forth requirements for the
20 identification, assessment and placement of students who need special education, and
21 seeks to ensure that they receive a free appropriate public education. The IDEA
22 mandates that school districts provide a “basic floor of opportunity.”⁶⁸

23 2. To be an eligible “child with a disability” under the IDEA, the student must
24 meet the definition of one or more of the categories of disabilities and need special
25

26 ⁶² See Respondent Exhibit 9 at PVUSD172.

27 ⁶³ See Respondent Exhibit 4 at PVUSD087 – PVUSD090.

28 ⁶⁴ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

29 ⁶⁵ *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 201
(1982)

30 ⁶⁶ 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

⁶⁷ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996) (quoting H.R. Rep. No. 410, 1983
U.S.C.C.A.N. 2088, 2106).

⁶⁸ *Rowley*, 458 U.S. at 200.

education and related services as a result of his/her disability or disabilities.⁶⁹ The IDEA lists and defines the following thirteen disability categories:⁷⁰

(1)(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.

(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

....

(4)(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

....

(7) Multiple disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

....

⁶⁹ 34 C.F.R. § 300.8(a)(1).

⁷⁰ 34 C.F.R. § 300.8(c).

(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that— (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance.

(10) Specific learning disability —(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. . . .

3. A FAPE consists of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.”⁷¹ The FAPE standard is satisfied if the student’s IEP sets forth his or her individualized educational program that is “reasonably calculated to enable the child to receive educational benefit.”⁷² Therefore, a school offers a FAPE by offering and implementing an IEP “reasonably calculated to enable [a student] to make progress appropriate in light of [the student’s] circumstances.”⁷³ The IDEA does not require that each student’s potential be maximized.⁷⁴ A student receives a FAPE if a program of instruction “(1) addresses his unique needs, (2) provides adequate support services so he can take advantage of the

⁷¹ *Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

⁷² *Id.*, 485 U.S. at 207. In 2017, in *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ___, 137 S. Ct. 988, 2017 West Law 1234151 (March 22, 2017), the Supreme Court reiterated the *Rowley* standard, adding that a school “must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances,” but the Court declined to elaborate on what “appropriate progress” would look like case to case (*i.e.*, in light of a child’s circumstances).

⁷³ *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ___ (2017).

⁷⁴ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

educational opportunities and (3) is in accord with an individualized educational program.”⁷⁵

4. Once a student is determined to be eligible for special education services, a team composed of the student’s parents, teachers, and others formulate an IEP that, generally, sets forth the student’s current levels of educational performance and sets annual goals that the IEP team believes will enable the student to make progress in the general education curriculum.⁷⁶ The IEP tells how the student will be educated, especially with regard to the student’s needs that result from the student’s disability, and what services will be provided to aid the student. The student’s parents have a right to participate in the formulation of an IEP.⁷⁷ The IEP team must consider the strengths of the student, concerns of the parents, evaluation results, and the academic, developmental, and functional needs of the student.⁷⁸ To foster full parent participation, in addition to being a required member of the team making educational decisions about the student, school districts are required to give parents written notice when proposing any changes to the IEP,⁷⁹ and are required to give parents, at least once a year, a copy of the parents’ “procedural safeguards,” informing them of their rights as parents of a student with a disability.⁸⁰

5. The IEP team must consider the concerns of a student’s parents when developing an IEP.⁸¹ In fact, the IDEA requires that parents be members of any group that makes decisions about the educational placement of a student.⁸²

6. A parent who requests a due process hearing alleging non-compliance with the IDEA must bear the burden of proving that claim.⁸³ The standard of proof is

⁷⁵ *Park v. Anaheim Union High Sch. Dist.*, 464 F.3d 1025, 1033 (9th Cir. 2006) (citing *Capistrano Unified Sch. Dist. v. Wartenberg*, 59 F.3d 884, 893 (9th Cir. 1995)).

⁷⁶ 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320 to 300.324.

⁷⁷ 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. §§ 300.321(a)(1).

⁷⁸ 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.324(a).

⁷⁹ 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503.

⁸⁰ 20 U.S.C. § 1415(d); 34 C.F.R. § 300.503. Safeguards may also be posted on the Internet. 20 U.S.C. § 1415(d)(B).

⁸¹ 20 U.S.C. § 1414(d)(3)(A)(ii); 34 C.F.R. §§ 300.324(a)(1)(ii).

⁸² 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.327 and 300.501(c)(1).

⁸³ *Schaffer v. Weast*, 546 U.S. 49, 56 (2005).

“preponderance of the evidence,” meaning evidence showing that a particular fact is “more probable than not.”⁸⁴

7. The IDEA’s statute of limitations requires courts to bar claims made more than two years after the parents “knew or should have known” about the actions forming the basis of the complaints.⁸⁵

8. Statutes should be interpreted to provide a fair and sensible result.⁸⁶ “In applying a statute its words are to be given their ordinary meaning unless the legislature has offered its own definition of the words or it appears from the context that a special meaning was intended.”⁸⁷

9. The Tribunal is required to apply equitable principles when rendering decisions.⁸⁸ The application of equity entails offering a remedy to avoid an unconscionable or unjust result.⁸⁹

10. This Tribunal’s determination of whether Student received a FAPE must be based on substantive grounds.⁹⁰ A FAPE consists of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.”⁹¹ Courts do not “substitute their own notions of sound educational policy for those of the school authorities which they review.”⁹² In addition, the appropriateness of an offer of FAPE must be judged in light of the circumstances at the “snapshot in time” when the IEP was developed, not with the benefit of hindsight.⁹³

⁸⁴ *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279 (1993) (quoting *In re Winship*, 397 U.S. 358, 371-72 (1970)); see also ARIZ. REV. STAT. § 41-1092.07(G)(2); ARIZ. ADMIN. CODE R2-19-119(B)(1); *Culpepper v. State*, 187 Ariz. 431, 437, 930 P.2d 508, 514 (Ct. App. 1996); *In the Matter of the Appeal in Maricopa County Juvenile Action No. J-84984*, 138 Ariz. 282, 283, 674 P.2d 836, 837 (1983).

⁸⁵ 20 U.S.C. §1415(f)(3)(C); see also *Avila v. Spokane Sch. Dist.* 81, 852 F.3d 936, 937 (9th Cir. 2017); *J.K and J.C. on behalf of themselves and K.K-R v. Missoula County Publ. Schools*, 713 F. App’x 666 (9th Cir. 2018).

⁸⁶ See *Gutierrez v. Industrial Commission of Arizona*, 226 Ariz. 395, 249 P.3d 1095 (2011)(citation omitted); *State v. McFall*, 103 Ariz. 234, 238, 439 P.2d 805, 809 (1968) (“Courts will not place an absurd and unreasonable construction on statutes.”).

⁸⁷ *Mid Kansas Federal Savings and Loan Ass’n of Wichita v. Dynamic Development Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991).

⁸⁸ *Seitz v. Industrial Commission of Arizona*, 184 Ariz. 599, 603 (Ariz. Ct. App., Div. 1, 1995).

⁸⁹ *Sanders v. Folsom*, 104 Ariz. 283, 289, 451 P.2d 612 (Ariz. 1969)(quoting *Merrick v. Stephens*, 337 S.W.2d 713, 719 (Mo. App. 1960)).

⁹⁰ 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. § 300.513(a)(1).

⁹¹ *Rowley*, 458 U.S. at 203.

⁹² *Id.* at 206.

⁹³ *J.W. v. Fresno Unified Sch. Dist.*, 626 F.3d 431, 439 (9th Cir. 2010).

11. Procedural violations in and of themselves do not necessarily deny a student a FAPE. If a procedural violation is alleged and found, it must be determined whether the procedural violation either (1) impeded the student's right to a FAPE; (2) significantly impeded the parents' opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefit.⁹⁴ If one of the three impediments listed has occurred, the student has been denied a FAPE due to the procedural violation.

12. [W]hen a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP.⁹⁵ "There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education."⁹⁶

ANALYSIS & DECISION

13. Petitioners filed the DUE PROCESS COMPLAINT in this matter on October 9, 2025; thus the relevant period of time for the issues at bar were from October 9, 2023, through October 9, 2025. Any actions or inactions that occurred before October 9, 2023, are beyond the limitations period.

14. To prevail in the case at bar, Petitioners must have established by a preponderance of the evidence that Respondent procedurally and/or substantively violated the IDEA as alleged in the DUE PROCESS COMPLAINT. The Tribunal finds as follows:

Issue #1 – Academic neglect and denial of specialized instruction which constituted a denial of FAPE, for instance, (1) Resource room placement had been unproductive, unstructured homework time and not targeted intervention and (2) Student often assists peers instead of receiving instruction in the resource room.

15. While Mother contended that the resource room was unproductive and Student would spend the majority of her time on the computer, the weight of the credible testimony established that Special Education Teacher provided consistent, multi-

⁹⁴ 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. §§ 300.513(a)(2).

⁹⁵ *Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811, 815 (9th Cir. 2007).

⁹⁶ *Id.* at 821.

1 sensory, but structured instruction in the resource room. The Special Education
2 Teacher testified to the great strides made by Student towards her goals and how those
3 goals could be even more achievable with consistent attendance. Furthermore,
4 Petitioner provided no credible evidence that Student was assisting peers while in the
5 resource room. As such, Petitioner failed to establish by a preponderance of the
6 evidence that the District denied Student a FAPE as to Issue #1.

7 **Issue #2 and #4 – Failure to recognize full disability profile by (1) Student was not**
8 **properly classified under appropriate eligibility categories such as: ASD, SLD, MD**
9 **and Severe ED, (2) the District ignored prior testing that showed Student was**
10 **gifted in verbal reasoning, and (3) District failed its Child Find obligation under**
11 **the IDEA.**

12 16. Each public agency must ensure that the child is assessed in all areas
13 related to the suspected disability, including, if appropriate, health, vision, hearing,
14 social and emotional status, general intelligence, academic performance,
15 communicative status, and motor abilities.⁹⁷ In evaluating each child with a disability
16 under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to
17 identify all of the child's special education and related services needs, whether or not
18 commonly linked to the disability category in which the child has been classified.⁹⁸

19 17. The State must have in effect policies and procedures to ensure that all
20 children with disabilities residing in the State, including children with disabilities who are
21 homeless children or are wards of the State, and children with disabilities attending
22 private schools, regardless of the severity of their disability, and who are in need of
23 special education and related services, are identified, located, and evaluated.⁹⁹

24 18. As to Petitioners' argument that the District "ignored" prior testing to show
25 that Student was gifted in the area of verbal reasoning will not be considered by this
26 Tribunal because this is not a recognized eligibility category under the IDEA and is
27 dismissed.

28 19. As to the classification, while Petitioner argued that OHI was not a proper
29 eligibility category for Student, the School Psychologist, Special Education Director, and

30 ⁹⁷ 34 C.F.R. § 300.304(c)(4).

⁹⁸ 34 C.F.R. § 300.304(c)(6).

⁹⁹ 34 C.F.R. § 300.111(a)(1)(i).

1 Special Education Teacher all provided overwhelming testimony and evidence that the
2 OHI classification met all of Student's functional and academic needs. In addition, the
3 District provided compelling evidence regarding why the other proposed classifications
4 were rejected.¹⁰⁰ Further, when the MET team convened to consider this matter, they
5 considered all of the school evaluations, medical diagnoses and reports, Mother's input,
6 educators' input, classroom observations, and other data points to decide on the proper
7 classification for Student. As to Mother's argument that Student qualified under the
8 Autism category, Mother referenced the November 22, 2023, report completed by
9 Developmental & Educational Psychological Services¹⁰¹ and the October 4, 2024,
10 evaluation completed by Psychological Pathways,¹⁰² neither of which indicated an ASD
11 diagnosis for Student. As such, Petitioner failed to establish by a preponderance of the
12 evidence that District violated its Child Find obligation under the IDEA.

13 **Issue #3 – The District failed to provide procedural safeguards, meaningful**
14 **participation, and to consider Petitioner's input.**

15 20. Although Petitioner contended that the district ignored her 30-page goal
16 document, the evidence clearly established that the District thoroughly reviewed the
17 document and incorporated eight of Mother's suggestions into the IEP, which was
18 documented in the PWN dated October 9, 2025. Furthermore, Petitioner was provided
19 notice of meetings, prior written notices, and clear information on District documentation
20 on how to obtain a copy of a description of her procedural safeguards. Petitioner failed
21 to provide any testimony or evidence to support that the District failed in this regard. In
22 addition, Petitioner attended numerous meetings without voluntarily bringing any of
23 Student's outside providers, who would have been welcomed. Therefore, Petitioner
24 failed to establish by a preponderance of the evidence that District denied her the
25 opportunity to meaningfully participate under the IDEA.

26 **RULING**

27 The credible and substantive evidence of record does not establish procedural or
28 substantive due process violations to Claims 1 through 4.

29 ¹⁰⁰ See Respondent Exhibit 4 at PVUSD087 – PVUSD090.

30 ¹⁰¹ See Petitioner's Exhibit C1.

¹⁰² See Petitioner's Exhibit C2.

Based on the foregoing,

IT IS ORDERED that Petitioner failed to meet her burden of proof and that claims 1 through 4 are **denied**.

IT IS FURTHER ORDERED that 26C-DP-024-ADE be **dismissed with prejudice**.

IT IS FURTHER ORDERED that the District is the prevailing party in this matter.

Done this day, March 5, 2026

/s/ Nicole Robinson
Administrative Law Judge

NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i)(1)(A), 34 C.F.R. §§ 300.514(b) and 300.516, and ARIZ. REV. STAT. § 15-766(E)(3), this DECISION AND ORDER is the final decision at the administrative level. Furthermore, any party aggrieved by the findings and decisions made herein has the right to bring a civil action, with respect to the complaint presented, in any State court of competent jurisdiction or in a district court of the United States. Pursuant to ARIZ. REV. CODE R7-2-405(H)(8), any party may appeal the decision to a court of competent jurisdiction within thirty-five (35) days of receipt of the decision.

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