

1
2 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

3 [REDACTED] Student, by and through Parent

No. 26C-DP-041-ADE

4
5 Petitioners,
6 v.

**ADMINISTRATIVE LAW JUDGE
DECISION**

7 Agua Fria Union High School District

8 Respondent.
9

10 **HEARING:** May 22, 2026, with the record held open until June 26, 2026, for the
11 purpose of receiving the Court Reporter's Transcript.

12 **APPEARANCES:** Dr. Robin Shedrick appeared on behalf of Student [REDACTED], by and
13 through Parent [REDACTED]. Susan Segal, Esq. appeared on behalf of Agua Fria Union High
14 School District (Agua Fria).

15 **WITNESSES:**¹

- 16 • Parent [REDACTED] (**Parent**);
- 17 • Brent Russell (**School Counselor**);
- 18 • Claudia Weiss, (**Lead School Psychologist**), Agua Fria;
- 19 • Katherine Jackson, (**School Phycologist**), Agua Fria;
- 20 • Katie Howard, (**Speech Language Pathologist**), Agua Fria;
- 21 • Austyn Hull, (**Success Seminar Teacher**), Agua Fria;

22 **HEARING RECORD:** Certified Court Reporter Pamela A. Griffin recorded the
23 proceedings as the official record of the hearing.²

24 **ADMINISTRATIVE LAW JUDGE:** Velva Moses-Thompson

25 **ADMITTED EXHIBITS:** Agua Fria's Exhibits 1 through 25 (Bates 1 through 259).
26
27

28 ¹ Throughout the body of this Decision, proper names of Student and Parent are not used to protect the
29 confidentiality of Student and to promote ease of redaction. Where necessary, pseudonyms (designated
30 here in bold typeface) will be used instead. Pseudonyms will be used for multiple witnesses

² The Tribunal received the entire transcript after the final hearing session. The Tribunal does not begin
its review process with the use of a transcript until the hearing sessions are complete and the post-hearing
submissions are complete because parties often stipulate, concede, and/or withdraw issues that, therefore,
would not be considered or addressed in a final decision.

1 Student [REDACTED] (Student), by and through Parent, brought this due process action
2 claiming that Agua Fria erred in its determination that Student was no longer eligible for
3 special education services.³

4 The law governing these proceedings is the Individuals With Disabilities Education
5 Act (IDEA) found at 20 United States Code (U.S.C.) §§ 1400-1482 (as re-authorized and
6 amended in 2004),⁴ and 34 Code of Federal Regulations (C.F.R.) § 300.508(b), as well
7 as the Arizona Special Education statutes, and Arizona Revised Statutes
8 (A.R.S.) § 15-766.

9 **PROCEDURAL HISTORY**

10 On December 15, 2025, Student, by and through Parent, filed a due process
11 complaint (Complaint). The matter was continued to January 14, 2026, and April 14,
12 2026.⁵ At hearing on May 22, 2026, testimonial and written evidence was received, and
13 the record was held open until June 26, 2026, to allow the court reporter's transcript to be
14 included in the record.⁶

15 **ISSUE FOR HEARING**

16 Based on the May 1, 2026, pre-hearing conference, the following issue was heard
17 at due process hearing:

18 Whether Student is no longer eligible for special education services effective
19 October 21, 2025, the date of Agua Fria's re-evaluation of Student's eligibility for special
20 education services.

21 **FINDINGS OF FACT**

22 1. In August of 2025, Student transferred from [REDACTED] Elementary School
23 District and enrolled in [REDACTED], within Agua Fria, as

24 ³ Student also raised two additional issues: (1) After removal from special education services, [Student]
25 has experienced significant issues peers and teachers in class. He has had to be moved from two
26 different classes because he felt attacked as the teachers were publicly discussing their concerns about
27 his learning behavior and academics in front of peers. . . and (2) [Student [REDACTED]] has been told that instead
28 of transferring in his good grade for SS, his art teacher was going to require him to make up assignments
29 before he ever joined the class. . . Issues (1) and (2) were dismissed on January 7, 2026, because they
30 do not relate to the identification, evaluation, placement, or the provision of FAPE to Student

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.

⁵ The requests for continuances were granted because Agua Fria's counsel has necessary medical
procedures and Parent was unable to take time off of work to participate in a hearing.

⁶ Because the hearing date was continued, the 45th day deadline to issue a decision was extended to July
16, 2026.

1 [REDACTED] student. Upon his transfer, Student had an initial Individualized Education
2 Program (IEP) dated December 18, 2024. See Exhibit 3. The December 18, 2024 IEP,
3 was amended on January 30, 2025. See Exhibit 2. Student's transfer records included
4 an Educational history, a Developmental history (including social emotional
5 development and parent information if noted), a Previous Evaluation, an Academic
6 assessment/classroom based data, an Intellectual assessment or documented reason
7 for not having one, Educational recommendations, documentation supports category
8 and substantiated eligibility, and Eligibility page, an [REDACTED]
9 [REDACTED]. See Exhibit 3.

10 2. On August 15, 2025, the District held an IEP meeting that also served as a
11 "MET 1". See (Transcript) Tr. at 62. During the meeting, Parent requested that the
12 District re-evaluate Student for special education services. See Tr. at 62 and Bates 124.
13 Parent indicated that she suspected [REDACTED] as a possible area of eligibility. Parent
14 provided her informed written consent for Agua Fria Union to gather additional data in
15 the areas of general intelligence, academics, communication, social/emotional
16 functioning, and motor/sensory concerns. See Bates 124 and Tr. at 62-23.

17 3. Agua Fria re-evaluated Student for special education services and created
18 an Evaluation Report. See Tr. at 77-78 and Bates 0071 through 0119. Agua Fria's Lead
19 School Psychologist, [REDACTED] Speech Language Pathologist, [REDACTED]
20 School Psychologist, [REDACTED] Student's Success Seminar teacher, and Parent
21 participated in the re-evaluation. Agua Fria re-evaluated Student in the following areas
22 of suspected disability: [REDACTED] (based upon parents' concern), [REDACTED]
23 [REDACTED] (which could have led to another health
24 impairment), [REDACTED] The
25 Re-Evaluation Report included MET paperwork, the data from testing performed in
26 2025, and input from assessments completed in previous years. See id at 78. As a
27 result of the evaluation, Agua Fria determined that Student was not eligible for special
28 education services under any category of educational disability.

29 4. During the MET meeting in August of 2025, school personnel all agreed
30 that Student no longer qualified for special education services. See Tr. at 91. Parent
and Dr. Shedrick, Student's advocate, did not agree. At that time, Lead School

1 Psychologist informed Parent of her right to an independent educational evaluation
2 (IEE) at the expense of Agua Fria. However, Parent [REDACTED] or Dr. Shedrick had concerns
3 about Student needing an accommodation and they all decided to proceed with a
4 meeting to discuss a 504 accommodation plan for Student. See id.

5 5. Lead School Psychologist obtained a certification as a national School
6 Psychologist certification in 1997. See Bates 197. She obtained a certification from the
7 State of Arizona as a School Psychologist in 2003, pre-Kindergarten through grade 12.
8 See id. Lead School Psychologist is certified as a School Psychologist through the
9 Arizona Department of Education. See Tr. at 54.

10 6. Lead School Psychologist has a Bachelor of Arts in Psychology from
11 Florida State University. She has an Educational Specialist degree in School
12 Psychology and Master of Science in Counseling & Human Systems from Florida State
13 University.

14 7. Lead School Psychologist has been the Lead School Psychologist for
15 Agua Fria since 2007. Lead School Psychologist was also the Lead School
16 Psychologist in the Fowler Elementary School District in Phoenix, Arizona.

17 8. Lead School Psychologist's training and background consists of
18 counseling, crisis intervention, consultation, program evaluation, and psycho-
19 educational evaluation. See Tr. at 55. Lead School Psychologist has taken classes in
20 intellectual assessment, academic assessment, and social/emotional assessment.
21 Lead School Psychologist has training and expertise in identifying students for special
22 education in the disability categories of autism, ADHD, and learning disabilities. See id.

23 9. Lead School Psychologist has completed as many as 90 educational
24 evaluations in one year. See Tr. at 55. Lead School Psychologist also attended the IEPs
25 associated with those evaluations. See id.

26 10. Lead School Psychologist is a Level C evaluator for major test publishing
27 companies such as Pearson, Riverside, and Muti-Health Systems. See Tr. at 55. A
28 Level C Evaluator is certified and credentialed to administer the highest-level
29 assessments for a publisher. See Tr. at 56. Lead School Psychologist was certified by
30 the makers of the tests administered to Student.

1 11. Every test that was administer to Student was administered appropriately
2 within the scope of Lead School Psychologist's professional experience and
3 certification.

4 12. Lead School Psychologist is an Arizona delegate for the National
5 Association of School Psychologists. In 2018, the State Board of Education added
6 school psychologists, in addition to other evaluators, as qualified examiners who are
7 qualified to certify ADHD for purposes of Other Health Impairment eligibility.

8 13. Lead School Psychologist participated in the re-evaluation of Student.
9 Lead School Psychologist has known Student since August of 2025. Lead School
10 Psychologist met Student during a classroom observation.
11 See Tr. at 57. Lead School Psychologist collected rating scales from teachers and
12 Parent. Lead School Psychologist collected information from Student's teachers for the
13 Functional Behavioral Assessment. Lead School Psychologist collaborated with School
14 Psychologist and Speech Language Pathologist to synthesize the information.
15 Ultimately, Lead School Psychologist wrote the final report. Lead School Psychologist
16 determined that there were no errors in the protocol of the tests that were administered
17 during Agua Fria's re-evaluation of Student. See Tr. at 98. Lead School Psychologist
18 concluded that all the assessments were administered within the boundary of the tests'
19 standardization. The tests were given appropriately, scored appropriately, and reported
20 appropriately. See id.

21 14. Lead School Psychologist did not begin the re-evaluation with a
22 predetermination that Student would not qualify for services. See Tr. at 93. Student
23 would not have been due for reevaluation until February of 2027. Agua Fria began the
24 re-evaluation solely based upon Parent's request.

25 15. In August of 2025, Agua Fria Union sent rating scales to Parent for her
26 completion. See Tr. at 63. Parent completed the rating scales and provided them to
27 Agua Fria on October 17, 2025. See id.

28 16. Agua Fria Union's re-evaluation included the following assessments:⁷

- 29 • ADHD Rating Scales
- 30 • Autism Spectrum Rating Scales

⁷ See Exhibit 12, April 7, 2021, Agua Fria Union's Evaluation Report.

- Behavior Assessment System for Children
- Reynolds Intellectual Assessment Scales, Second Edition
- Social Language Development tests
- Pragmatic Language Assessment
- Vineland Adaptive Behavior Scales
- Woodcock-Johnson IV tests of achievement

[See Tr. at 71.]

17. Agua Fria Union reviewed Student's educational records, medical history, and developmental information. See Tr. at 71. Two evaluators made classroom observations. Additionally, Agua Fria Union conducted a Functional Behavior Assessment (FBA) and gained input from teachers regarding their concerns. See id.

18. Lead School Psychologist gained input from Student during the re-evaluation. See Tr. at 72. Agua Fria Union reviewed classroom observations by two different evaluators. Agua Fria evaluated Student in the following areas:

- General Intelligence
- Academics
- Communication
- Social/Emotional
- Adaptive Behavior
- Functional Behavior Assessment
- Classroom Observation

[See Exhibit 7 at AFUHSD.00129.]

19. The MET team updated Students' general intelligence. See Tr. at 64. The area of general intelligence was not updated in 2024. See id. The MET also made an update to academics to get a current picture of Student's reading, writing, and math skills. The MET evaluated Student in communication because it is best practice when autism is a suspected disability. The MET also explored social and pragmatic language. The area of social/emotional included not only behaviors related to Student's current eligibility as a student with an emotional disability, but also assessing characteristics that are associated with autism, such as social communication, inter-peer interactions, and self-regulation. Student was evaluated in adaptive behavior, which is self-help skills. It is best practice when evaluating autism to evaluate a student in adaptive behavior because often even people who are high functioning can have gaps in their

1 ability to take care of themselves in some fundamental ways such as grooming and
2 knowing their surroundings. See id. The MET team conducted a Functional Behavior
3 Assessment because Student needed behavioral support, but an assessment had not
4 been done. The MET evaluated Student in classroom observation which is also a best
5 practice when autism is a suspected disability. See Tr at 67: Lead School Psychologist
6 testimony.

7 20. School Psychologist is a School Psychologist for Agua Fria. See Tr at 66.
8 School Psychologist is assigned to [REDACTED] School Psychologist completed the
9 academic and cognitive testing of Student. School Psychologist also completed one of
10 the behavior rating scales. See id. School Psychologist has worked for [REDACTED] of
11 a year. Prior to that time, School Psychologist was a School Psychologist in the Phoenix
12 Elementary School District.

13 21. School Psychologist holds a Bachelor of Arts in General Education –
14 Special Education from Arizona State University. School Psychologist holds a Master of
15 Arts in Psychology from Ottawa University. See Bates 206. School Psychologist holds a
16 Special Education Certification Kindergarten (K) through 12 and a certification in school
17 psychology K through 12.

18 22. School Psychologist completes evaluation reports and assists with suicide
19 risk assessment scales in her role as a School Psychologist. School Psychologist was a
20 part of the Evaluation and MET team for Student. See Tr. at 140. School Psychologist
21 completed the cognitive and intellectual evaluation of Student. See id.

22 23. Speech Language Pathologist is the Speech Language Pathologist that
23 serves [REDACTED] Speech Language Pathologist obtained a Bachelor of Science in
24 Speech and Hearing Science from Arizona State University in 2004. School
25 Psychologist obtained a Master's in Science in Clinical Speech-Language Pathology
26 from Northern Ariona University in 2009.

27 24. Speech Language Pathologist has been a speech language pathologist
28 for Agua Fria since 2007. Speech Language Pathologist holds a Bachelor of Science
29 degree in Speech and Hearin Science. Speech Language Pathologist holds a Master of
30 Science in Clinical Speech-Language Pathology from Northern Ariona University.

1 25. Agua Fria does not decide based on one piece of data or based on one
2 test or score. See Tr. at 81. When Agua Fria determined whether student was eligible
3 for services as a student with [REDACTED], Agua Fria also considered Student's performance
4 on the pragmatic evaluation completed by Speech Language Pathologist, observations,
5 and Student's developmental history.

6 26. Speech Language Pathologist administered an assessment of pragmatic
7 language to Student. See Tr at 66. Speech Language Pathologist also administered a
8 pragmatic language questionnaire to Student's teachers and completed an observation.
9 See id. Speech Language Pathologist explained at hearing that pragmatic language is
10 how a person uses language socially. It includes social interactions such as reading,
11 nonverbal cues, and making inferences. See Tr. at 67.

12 27. Speech Language Pathologist holds a current Certificate of Clinical
13 Competency from the American Speech and Hearing Association and the Arizona
14 Department of Health Services. Speech Language Pathologist holds a Speech
15 Language Pathologist license. Speech Language Pathologist has been trained and
16 educated in testing in the area of speech language pathology.

17 28. Agua Fria determined whether Student met the educational criteria to be
18 identified as a student with [REDACTED]. See Tr. at 79. In the evaluation, Agua Fria Union
19 evaluated Student for [REDACTED], [REDACTED]
20 [REDACTED]. See Tr. at 67 and 68. As a part of its assessment of Student's
21 eligibility for special education services under the category of [REDACTED], Agua Fria Union
22 assessed Student in additional areas such as adaptive skills and social/emotional
23 characteristics related to [REDACTED]. See id at 68. When determining whether a Student
24 qualifies for special education under the category of [REDACTED], the School considers the
25 impact on the Student in the educational environment. See Tr. at 85. Lead School
26 Psychologist noticed that Parent's input was far more negative than that of Student's
27 teachers. See id. The information provided from the parent is important and vital. See
28 id.

29 29. Agua Fria determined whether Student satisfied the DSM-5 diagnosis
30 [REDACTED]. See Tr. at 81-82. Although schools are not required to consider DSM

criteria, Agua Fria decided to include the DSM to provide a comprehensive evaluation.
See Tr. at 83.

30. The Re-evaluation Report provided, in relevant part, as follows:

.....
Statement of Potential Eligibility for Special Education:
.....

The definition [REDACTED]: The determination of eligibility for special education is based on an evaluation pursuant to the IDEA, A.R.S. 15766, and the following requirements: The student has a [REDACTED] disability that significantly affects verbal and nonverbal communication, social interaction and adversely affects performance in the educational environment. [REDACTED] include irregularities and impairments in communication, engagement in [REDACTED] and stereotypical movements, resistance to environmental change or changes in daily routines and unusual responses to sensory experiences. [REDACTED] include children with emotional disabilities as defined in [Arizona Revised Statutes section 15-766]. [Student] does not have a developmental disability, and he does not demonstrate impairments in verbal or nonverbal communication or social interactions, nor is he engaging in [REDACTED] and stereotypical movements, resistance to environmental change or changes in daily routines and unusual responses to sensory experiences. Therefore, he is not eligible for services as a [REDACTED]

[See Bates 115.]

31. Lead School Psychologist testified at hearing consistently with her Re-Evaluation Report regarding the reasons why Student did not meet the DSM-5 [REDACTED] [REDACTED] based upon the testing, assessments, and input provided from Parent and Student's teachers. See Exhibit Bates 11-113 and Tr. at 83-85. Lead School Psychologist concluded that Student failed to meet the DSM-5 [REDACTED]. See id. She determined that Student did not meet the DSM-5 [REDACTED] after considering the reports from Parent and Student's teachers. See Bates 111-113.

32. The assessments that were used to re-evaluate Student were "age normed", instead of "grade normed", because the test publishers recommend age normed. See Tr. at 108. Lead School Psychologist explained that the only reason that the school would go against the recommendation of a publisher is if the student had been retained or there was some other reason not to use the age normed. See id.

1 33. Lead School Psychologist concluded that Student was not eligible for
2 special education services as a [REDACTED] Student was not,
3 “.....demonstrating impairments in verbal or nonverbal communication or social
4 interactions, nor is he engaging in repetitive activities and stereotypical movements,
5 resistance to environmental change or changes in daily routines and unusual responses
6 to sensory experiences.” See Exhibit 5 at 115.

7 34. Success Seminar Teacher has a certificate in Special Education K through
8 12 and has worked for Agua Fria since 2013. Success Seminar Teacher was the
9 teacher that was most familiar with Student. See Tr. at 80. Success Seminar Teacher
10 conducted the [REDACTED]. Success Seminar Teacher did not find
11 difficulties in any area. In the areas of attention and self-regulation, unusual behaviors,
12 and socialization, Student fell in the average range. See id. Student’s overall score on
13 the [REDACTED] administered by Success Seminar Teacher was 51.
14 See Bates 99. The overall score on the [REDACTED] administered by
15 Parent was 59. See Bates 99-100.

16 35. Parent completed an [REDACTED]. See Tr. at 80. Parent
17 did not indicate any areas [REDACTED] in the domain of unusual behaviors,
18 socialization, or attention and self-regulations. However, Parent noted some difficulties
19 in social communication. See id.

20 36. Agua Fria also collected measures on Student’s self-help skills when
21 determining his eligibility for services under [REDACTED]. See Tr. at 82.
22 Parent completed the Vineland Adaptive Behavior Scales. See Bates 101.
23 Parent found that Student’s overall self-help skills were in the moderately low range, his
24 socializations skills were low compared to other students his age. Parent found that
25 Student was worse than one out of a hundred students, and his communication skills
26 were at the moderately low range. See id. Parent rated Student as average in his daily
27 living skills. See id at 82.

28 37. Lead School Psychologist explained at hearing that it is best practice to
29 measure adaptive behavior skills when determining a student’s eligibility for special
30 education services [REDACTED]. See Tr. at 60. Agua Fria conducted an

Adaptive Behavior Assessment and used the Vineland Adaptive Behavior Scales, Third Edition. See Tr. at 100.

38. Parent and Success Seminar Teacher completed the Attention/Self-Regulation Scale [REDACTED]. They both indicated that Student was within average range. See Tr. at 67.

39. Agua Fria determined that Student did not meet the criteria to qualify for special education services [REDACTED]. See Bates at 113-114. Student had not previously been diagnosed [REDACTED]. See Bates at 94.

40. Agua Fria conducted a Functional Behavioral Assessment (FBA) of Student. See Bates 102. The FBA includes input from six teachers. See Tr. at 97. The teachers provided direct feedback into any problem with behaviors, other rating scales and information form Student, and information from previous behavior. See Tr. at 100. In the FBA, Agua Fria targeted the behaviors that the teachers observed in the classroom. See Tr. at 102. Lead School Psychologist talked with Student and he reported that any "off-task" behavior was not beyond his control. Student explained that in the past, he was triggered if a teacher was too strict. Student believed that other students might try to get him angry to get a reaction. However, Student explained that he wanted to go down a different path for high school. As a result, the team reviewed on-task behavior, work completion, and interacting with peers at the appropriate time during class. Lead School Psychologist spoke with Student during the evaluation. See Tr. at 71 to 72. Student explained to Lead School Psychologist that he currently regulates his behavior more than he did in prior years. See id at 72.

41. Six Teachers completed an online Functional Behavior Assessment, an informal measure with questions and answers related to Student's strengths, needs, and concerning events in the classroom. See Tr. at 67.

42. During the re-evaluation, Agua Fria considered every evaluation that Student has had since 2015. See Tr. at 72. Lead School Psychologist was unable to find any disciplinary records for Student. The District reviewed qualitative information from Student's teachers in the FBA input form. See id. There were some teachers that reported that Student did not have any missing assignments while others that described

1 Student as organized and flexible in problem solving. See Tr. at 73. The teachers
2 reported that Student did not have any issues with task initiation or work completion.
3 The input from the teachers showed that Student communicates with peers and is easily
4 redirected. The only difficulty that the teachers noted with regard to regulating Student's
5 behavior related to using the phone and talking to his peers. See id.

6 43. Lead School Psychologist stated that Student has had two referrals since
7 being out of special education and one referral when Student was receiving special
8 education. One of the referrals was for cheating.

9 44. Lead School Psychologist provided credible testimony when considering
10 Student's discipline records, attendance, record, teacher feedback and the consistency
11 of submitting assignments, Student is performing well and making positive progress.
12 See Tr. at 111.

13 45. In the [REDACTED] Rating Scales were used. The
14 Rating Scales included information from teachers about how Student can regulate
15 himself in the classroom. Three teachers and Parent completed scales related to the
16 [REDACTED]. See Tr. at 103. Student's English and Physical Education teachers
17 did not report problem behaviors. See Tr. at 102. Four of Student's teachers reported
18 that Student was distracted and that his off-task behaviors include talking to peers or
19 using his phone. One of Student's teachers reported that Student was out of his seat
20 and was calling out inappropriately to peers during instruction. However, the teacher
21 then reported that Student was easily redirected, and that the behaviors seem to
22 happen when he was with his peers. Three teachers completed [REDACTED] scale.

23 46. Student's teachers provided information regarding Student's strengths, his
24 strengths, including engagement, communication skills, self-advocacy, and social skills.
25 Student's teachers did not believe that Student had any academic skills deficits.

26 47. In the [REDACTED] Student was identified as eligible for special education
27 services under the [REDACTED]. See Tr. at 87.
28 However, during Agua Fria's re-evaluation of student, the team did not see
29 characteristics of a student with a disability. Student did not demonstrate any of the
30 characteristics of an emotional disability. See id at 87 to 88. Agua Fria obtained input
from teachers and the rating scales showing that Student was building and maintaining

1 satisfactory interpersonal relationships with peers and students. Student did not have
2 any behavior or feelings under normal circumstances. Student demonstrated a general
3 and pervasive mood of unhappiness. Student did not have physical symptoms or fears
4 associated with

5 school. Student did not have an inability to learn because he was performing well in
6 school and passing his classes. Student's teachers reported that he was able to
7 demonstrate good work habits, get along with peers, and work cooperatively. ·

8 See Tr. at 88.

9 48. Student completed a rating scale. See Tr. at 88 and Bates 98. Agua Fria
10 wanted to assess whether Student [REDACTED]

11 [REDACTED] See Tr. at 88. In the rating Scale, Student reported that he felt like other [REDACTED]
12 [REDACTED] about his attitude toward school and his teachers. See Tr. at 88 and 89.

13 Student did not report any significant thoughts of feelings related to [REDACTED]
14 [REDACTED]. Student did not report that he had difficulty regulating his physical level of
15 activity or regulating his attention. There was no report of difficulty in terms of
16 interpersonal relationships and getting along with others. See id at 89.

17 49. Parent completed a rating scale. There was no indication of anything
18 significant as it related to [REDACTED]. The team ultimately determined that
19 there was no evidence of an ongoing [REDACTED]. See Tr. at 90.

20 50. Lead School Psychologist explained that Agua Fria took into consideration
21 Parent's input when it made their determination. Because Agua Fria was evaluating
22 Student for an educational disability, it was important to identify issues that can be
23 addressed through specially designed instructions that are important in the school
24 environment. See 124.

25 51. As a part of the re-evaluation, Agua Fria obtained information from
26 teachers, formal measures and informal observation, and review of performance. See
27 Tr. at 120. The teachers noted a few characteristics that would be associated with an
28 [REDACTED] See id. The information from teachers showed that in the prior
29 academic year, Student struggled with meeting a particulate task or goal, distracted,
30 and disruptive in class. See Tr. at 120-121. During the current academic year, Student
demonstrated no behavior problems. One teacher reported behaviors like those

1 reported by Student's [REDACTED] teachers. Three teachers reported that while Student
2 might lose focus in reaching a certain goal, he was easily redirected and respectful.
3 See Tr. at 121. The characteristics of having difficulty and maintaining relationships that
4 the 2024 [REDACTED] evaluation team used to determine that Student has an [REDACTED]
5 [REDACTED] were no longer characteristics that Student was demonstrating in school.
6 See Tr. at 121-122.

7 52. As a part of the re-evaluation, Agua Fria obtained data to determine
8 whether Student would be eligible for special education services as a student with an
9 [REDACTED] See Tr. at 69. The data included an assessment of [REDACTED]
10 [REDACTED] that impacts academics and self-help skills. After reviewing the data, Agua
11 Fria concluded that Student did not meet the criteria of a student with a [REDACTED]
12 [REDACTED], because he did not demonstrate adaptive skills and [REDACTED] functioning
13 more than two standard deviations below the mean. Student's ability to think, learn
14 information, take care of himself, did not meet that threshold to be identified with a [REDACTED]
15 [REDACTED]. See id.

16 53. The MET team determined that Student was not eligible for special
17 education services under a category of [REDACTED] because Student's self-help
18 skills exceeded the threshold required under the IDEA for such a disability. No one on
19 the team had concerns about a [REDACTED] that impacted Student. As a result,
20 the MET team ruled out the diagnosis.

21 54. Agua Fria Union evaluated Student for a [REDACTED] See
22 Tr. at 70. Agua Fria Union uses a discrepancy model wherein it considers a significant
23 discrepancy between a student's [REDACTED] achievement. All
24 of Student's measured [REDACTED] were in the [REDACTED] range. See id.

25 55. During Student's re-evaluation in 2024, the evaluator opined that Student
26 would have performed better if he had put forth more effort. See Tr. at 70. The evaluator
27 commented, "take this information with a grain of salt." See id.

28 56. Regarding the academic testing that was performed in Agua Fria's 2025
29 evaluation, School Psychologist believed that Student put forth a good effort and the
30 scores were reliable. See Tr. at 70. Student's scores showed that his [REDACTED] skills
were in the [REDACTED] range. As a result, there was no area that was below average

1 that would require specialized or specially designed instruction to address skill deficit.
2 Student was found not to have a [REDACTED] because the general
3 education curriculum can enable student to make progress in classes with their peers.
4 See id.

5 57. Student alleged in his petition that he was given answers when he was
6 administered tests as a part of the special education evaluation. However, Lead School
7 Psychologist and School Psychologist agreed that Student may have mistaken
8 corrective feedback with supplying Student with answers that would cost an inaccurate
9 assessment or score. Lead School Psychologist determined that the tests that School
10 Psychologist administered were correct and that School Psychologist followed the
11 standardization procedures for the tests that she provided. At hearing, Lead School
12 Psychologist described corrective feedback as follows:

13 So corrective feedback is when you give an example to a student or to someone
14 who is taking this assessment, if they get the answer wrong, then you tell
15 them the right answer and then you ask them again. And you
16 do that so that you can be sure that when you're -- that as
17 you proceed in that particular subtest, that the person taking the test understands
18 the expectation.if the student gets the information wrong, you do
19 provide them with a correct answer. · It's to clarify that they understand the
20 expectation moving forward with the answer. · meant. · And that is a part of the
21 required standardization procedure. · And to put that into simple
22 language, that procedure. · he test that I was trained, that I'm giving, is going to
23 get a similar outcome as possible to the same test when School Psychologist
24 gives it because we both have to say and do the same things throughout the
25 testing
26 procedure. So that's -- so corrective feedback is one area where a student could
27 misunderstand and think that they were being given the answers because
28 technically they're being given an answer, but it is a part of the standardization
29 process. · It's part of the corrective feedback. · It's the expectation so that you
30 ensure that the student understands the task.

.....

26 So there's corrective feedback, and then there's also on the particular -- the
27 Reynolds, the Reynold feedback, students have two chances to get a right
28 answer. So if I'm asking you a question, and it's usually a visual type of thing and
29 you pick the wrong one, then I say, "What's your other choice or what else would
30 you pick?" They have a second chance to get -- to give a response. · And the way
that that is shown in scoring is a student who gets the answer right the first time
will get two points. · A student that gets it wrong but gets it right on the second

1 time will get one point. So at the end when you score the measure, it's going to
2 differentiate the student who got it right all in the beginning versus a student who
3 needed corrective feedback. So that's another instance where perhaps a student
4 could or an examinee could misunderstand and think that they're -- that they're
5 being given an answer. Those are the the two things that I just wanted to clarify.
6 [See Tr at 75-77.]

58. Lead School Psychologist stated that she did not believe that there was
6 corrective feedback for math on the Woodcock Johnson exam. See Tr. at 118. When
7 Lead School Psychologist was asked on cross-examination whether an assessment is
8 every 100 percent accurate, Lead School Psychologist explained that every
9 standardized assessment has a standard of error of measurement which is considered.
10 See Tr. at 110-11.

59. Lead School Psychologist explained at hearing that a confidence interval
12 is the standard error of measurement in place for a range of scores. For example, if
13 Student has a standard of score of 100, the confidence interval is that if the school gives
14 the test again, the school is sure it will be between 95 and 105. It is a standard error of
15 measurement. The confidence interval for the following tests used by Agua Fria in
16 Student's assessment were as follows:

- 17 • [REDACTED] - 95th confidence interval
- 18 • [REDACTED] - the 90th confidence interval that is recommended by the
19 publisher.
- 20 • [REDACTED] - 90th - Jadyen's score was 84 but
21 the confidence interval rating was 80 to 97.
- 22 • [REDACTED] - 90th
- 23 • [REDACTED] - 90th
- 24 • [REDACTED] - 90th

60. At the end of the first semester of the 2025-2026 school year, Student
24 stopped receiving special education services. See Tr. at 111. As a result, Student was
25 removed from the [REDACTED] class. Student was placed in an Art class instead.
26 Student passed the Art class but did not perform well. After Student was moved into the
27 class, Student intentionally stopped attending Art class and began going two lunches
28 instead. The school has two scheduled lunches every day identified as A and B and
29 Student attended both. Student told Parent that his teacher told him, "Don't worry,
30

1 [Student], you can go to two lunches because we're not doing anything in here."

2 However, during a meeting December, Lead School Psychologist explained to Student
3 that this was not true. The school created an assignment to help Student achieve a
4 passing grade. See id at 113. Student began receiving special education services in
5 January of 2026 when stay put was implemented.

6 61. School Psychologist is a psychologist at [REDACTED] See Tr. at 139.
7 School Psychologist worked as a school psychologist for Phoenix Elementary School
8 District before becoming employed with Agua Fria. See Tr. at 140. School Psychologist
9 has a degree in elementary education. School Psychologist is also specialized in middle
10 school education, and she holds a special education certification for grades K through
11 12. School Psychologist holds a special education certification in school psychology for
12 grades K through 12. See id. School Psychologist was a part of the re-evaluation and
13 MET team. School Psychologist completed the [REDACTED] assessment of
14 Student. School Psychologist conducted the [REDACTED] test in mathematics.
15 Student's mathematic score on the [REDACTED]. The confidence
16 interval was 82 to 95, in the low average range. See Bates 096. Student scored [REDACTED]
17 the same test in 2024. See Tr. at 119. Student's performance on a test of math
18 computations by hand was in the [REDACTED] range. Student's performance on a math test
19 of problem solving that involved money, measurement, and basic operations was in the
20 [REDACTED] range. See Tr. at 119-120.

21 62. School Psychologist did not give Student answers during the exams.
22 School Psychologist provided corrective feedback based on testing standardization.
23 School Psychologist provided an example of corrective feedback at hearing. School
24 Psychologist stated, "So on the cognitive assessment, you're given a second chance.
25 You will -- kind of like [Lead School Psychologist] explained, when you are looking
26 specifically at a picture assessment and you tell them to choose the picture that's most
27 appropriate and they do not, the first time you say, 'not that one, try again,' and they're
28 given that second opportunity.

29 63. School Psychologist explained that there are three assessments on the
30 [REDACTED] Assessment Scale that can provide that corrective feedback.

1 64. School Psychologist followed all the protocols for the test that she
2 administered.

3 School Psychologist explained that redirection and prompting is allowed as a part of the
4 instructions for the exam. School Psychologist has administered the [REDACTED]
5 approximately 300 times in the last 7 years. See Tr. at 143.

6 65. School Psychologist agreed that Student is not eligible for special
7 education services. School Psychologist was not instructed to reach any particular
8 discussion regarding eligibility before the final conclusion was made by the team.

9 66. School Psychologist provided a second example of corrective feedback on
10 the [REDACTED] Assessment. See Tr. at 144. School Psychologist stated, "So
11 for math problem solving, one of the questions may be related to money. Right? So they
12 have to determine: If I add two items together, what would my change be Right? And it's
13 a verbal question. Maybe would have the ability to write that information down.. They
14 may say "50" so you can prompt and say, "50 what?". And then they must provide the
15 actual unit of measurement that they are answering. So if they don't answer correctly or
16 say \$50 instead of .50, they would not receive points for that question. So they have --
17 that's the kind of prompting, like, specifically provided in the booklet. See id at 144-
18 146. School Psychologist explained that prompts are not provided on verbal
19 assessments, but on non-verbal assessment.

20 67. Speech Language Pathologist is a Speech Language Pathologist (SLP).
21 Speech Language Pathologist has worked for Agua Fria since 2007. See Tr. at 154.
22 Speech Language Pathologist has a Bachelor of Science in Speech and Hearing.
23 Speech Language Pathologist has a Master's of Science in Clinical Speech-Language
24 Pathology at NAU. Speech Language Pathologist has evaluated hundreds of students
25 in her career. See Tr. at 154-155. Speech Language Pathologist holds a current
26 certificate of clinical competency from the American Speech and Hearing Association,
27 the Arizona Department of Education, SLP Pre-K through 12, and the Arizona
28 Department of Health Services. Speech Language Pathologist was trained in an
29 educating testing for SLP purposes.

30 68. Speech Language Pathologist explained that pragmatics are social
communication skills like social rules and conventions. It is important to evaluate a

1 student in pragmatics when determining whether a student qualifies [REDACTED]
2 [REDACTED]. See
3 Tr. at 155. Speech Language Pathologist completed an externship and practicum in
4 Arizona.

5 69. Speech Language Pathologist was a part of the MET team and concluded
6 that the data was consistent that Student did not qualify for special education services.
7 Speech Language Pathologist completed a [REDACTED]
8 [REDACTED] Speech Language Pathologist used multiple data
9 sources: direct testing, observation, and a teacher questionnaire that was completed by
10 four of Student's teachers. A confidence interval is not required for the [REDACTED]
11 [REDACTED] Student's [REDACTED]. Speech Language
12 Pathologist did not give Student answers during this evaluation. Student was
13 cooperative and exceptionally pleasant. Speech Language Pathologist tested Student
14 inside and outside of the classroom.

15 70. At hearing, Speech Language Pathologist testified consistently with her
16 clinical observations shown at Bates 158. Speech Language Pathologist stated that the
17 information provided at Bates 103 reflects her experience testing Student. See Tr. at
18 158. Student's highest score was in the [REDACTED] [REDACTED]
19 [REDACTED]. Student received [REDACTED]. Student
20 received a [REDACTED]. Student has an [REDACTED]
21 [REDACTED]. Student received an [REDACTED].
22 The individual scores yielded [REDACTED]. See Tr. at 160. The data ruled
23 out a [REDACTED] based upon direct testing, Speech Language
24 Pathologist's own observation of Student, and teacher questionnaires. See Tr. at 162-
25 163.

26 71. Speech Language Pathologist observed Student in the classroom. See Tr.
27 at 162-163. Student consistently attended to instruction, followed classroom rules and
28 routines independently, and responded to teacher directions verbally. Student initiated
29 communication with both teacher and peers and responded well. Student's turn taking
30 was appropriate and he asked for help and clarification. Student raised his hand to
participate six times. Student made consistent eye contact and appeared to use age-

appropriate vocabulary with complex sentence length and complexity. Student was able to explain ideas or opinions independently. Student raised his hand to answer a question. Student consistently comprehended "WH" questions and student answered a follow-up "why" question from a teacher three times. Student diligently wrote down notes that tended to instruction. Speech Language Pathologist observed Student turn around to face other students who answered questions and sat behind him, because he wanted to look at them while they were answering. See id at 161-163. Four teachers completed reports regarding pragmatic language which is shown at Bates 109 and 110.

72. [REDACTED] Teacher has worked for Agua Fria since 2013. [REDACTED] Teacher has a certificate in special education K through 12. See Tr. at 165. [REDACTED]. [REDACTED] is a course offered by Agua Fria for students receiving special education. The course helps students with social/emotional and proactive/reactive behaviors. The teacher targets the course targets conflict resolution skills. In the class, the focus is habits for effective students including behaviors for students inside and outside of the classroom.

73. Student was in [REDACTED] for four class periods at the beginning of the school year for one week. After the first week of school during the 2025-2026 school year, Student was enrolled in [REDACTED] for only one class period. Student was successful in [REDACTED]

[REDACTED] learns how to be a successful student. [REDACTED] Teacher described Student as a "great kid" who does his work and takes phenomenal notes. [REDACTED] Teacher can read Student's penmanship and appreciates it. See Tr. at 168. If Student must be redirected, he is easily redirected. However, it is rare that Student needs to be re-directed. [REDACTED]

[REDACTED] Teacher stated at hearing, "Overall [Student]'s really a pleasure student to have in class."

74. Student had one referral during the first semester. Student had two referrals in the second semester when he was receiving special education services. Student is self-motivated. Student is always asking about what he needs to improve on, what he needs to complete and turn in. The beginning of the school started

off “rocky” which [REDACTED] Teacher states is normal for a [REDACTED] student.

[REDACTED] Teacher noticed that Student did not receive a good grade in Art, but his understanding is that Student was not consistently attending the class.

75. [REDACTED] Teacher explained at hearing that when Student has a conflict with people, Student communicates well to identify the issue and move past it. Student is not escorted from class-to-class. [REDACTED] Teacher testified to the effect that Student can identify a conflict with a peer and move past it. [REDACTED] Teacher stated that Student has a clear goal of wanting to be successful. Student finished the school year strong. [REDACTED] Teacher clarified that a referral is a report from teachers about extreme behavior.

76. At hearing, Parent testified to the effect that Student masks his emotions. See Tr. at 32. Parent testified at hearing, “.... I was noticing that a lot of the things that I believe that his peer-aged peers were doing, [Student] could not without support.” See id. Parent testified at hearing, “He said that during the test, that someone was standing over him, and they would basically – if he got one wrong or if he was looking like he was about to select something that wasn't the appropriate answer, that they would have -- they gave him the answer.” See Tr. at 47. Parent stated, “you can't base where somebody stands by standing over them, giving them the answers or directing them to what the answers could be.” Parent admitted on cross-examination that she did not understand the testing protocol for some of the tests. Parent did not dispute that Student received no more than three referrals. See id.

77. After considering the credible testimony of Lead School Psychologist and School Psychologist, the Administrative Law Judge concludes that Student was provided with corrective feedback instead of answers that would compromise the validity of the assessments.

78. During the second semester of the 2025-2026 school year, while receiving special education services, Student's grades were as follows:

- [REDACTED] (A)
- [REDACTED] (B)
- [REDACTED] (A)
- [REDACTED] (B)
- [REDACTED] (A)

- [REDACTED] (B)

[See Tr. at 48.]

79. Parent opined at hearing that Student was successful during his second semester due to tutoring and IEP supports. See Tr. at 51. Parent stated that Student dedicated time to understand the material being taught because he was assigned to two teachers in each class. See id.

80. Student submitted the testimony of School Counselor. School Counselor is retired from [REDACTED] School District. See Tr. at 16 to 28. School Counselor has a Master's Degree in Counseling and a Master's Degree in Educational Leadership. As a behavioral interventionist, School Counselor was involved with updating IEPs, writing behavioral intervention plans, and conducting behavioral assessments. School Counselor does not hold a degree in school psychology. School Counselor does not hold any licenses issued by the Arizona Board of Behavioral Health Examiners. School Counselor is not a Level C evaluator for the Pearson Assessments, Riverside Insights, or Multi-health Systems. [REDACTED] has not passed a national Clinical Mental Health Counseling Examination. School Counselor met personally with Student two or three times. The meetings varied from 30 minutes to an hour. School Counselor did not give Student any educational or psychological testing when he met with Student. School Counselor explained at hearing that the purpose of the meetings was to, "what was going on with him academically, what also was going on about the kind of things he wanted to do with his life." See Tr. at 18. School Counselor did not recall at hearing whether he had taken any classes about psychological testing. School Counselor did not provide any testimony to show that Student qualifies for special education services.

CONCLUSIONS OF LAW

APPLICABLE LAW

FAPE

1. Through the IDEA, Congress has sought to ensure that all children with disabilities are offered a FAPE (free appropriate public education) that meets their

individual needs.⁸ These needs include academic, social, health, emotional, communicative, physical, and vocational needs.⁹ To provide a FAPE, a school district must identify and evaluate all children within their geographical boundaries who may be in need of special education and services. The IDEA sets forth requirements for the identification, assessment, and placement of students who need special education, and seeks to ensure that they receive a FAPE. A FAPE consists of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.”¹⁰ The FAPE standard is satisfied if the child’s IEP sets forth his or her individualized educational program that is “reasonably calculated to enable the child to receive educational benefit.”¹¹ The IDEA mandates that school districts provide a “basic floor of opportunity.”¹² The IDEA does not require that each child’s potential be maximized.¹³ A child receives a FAPE if a program of specialized instruction “(1) addresses the child’s “unique” needs, (2) provides adequate support services so the child can take advantage of the educational opportunities and (3) is in accord with the child’s individualized educational program.”¹⁴

Burden of Proof and Basis of Decision

2. A parent who requests a due process hearing alleging non-compliance with the IDEA must bear the burden of proving that claim.¹⁵ The standard of proof is “preponderance of the evidence,” meaning evidence showing that a particular fact is “more probable than not.”¹⁶ Therefore, in this case Petitioners bear the burden of proving

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

⁹ *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).

¹⁰ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

¹¹ *Id.*, 485 U.S. at 207. In 2017, in *Endrew F. v. Douglas County 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).

¹² *Rowley*, 458 U.S. at 200.

¹³ *See id.* at 198.

¹⁴ *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)).

¹⁵ *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528 (2005).

¹⁶ *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 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).

1 by a preponderance of evidence that Respondent substantively violated the IDEA through
2 when it determined that Student was no longer eligible for special education services.

3 3. The implementing regulations of the Individuals with Disabilities Education
4 Improvement Act of 2004 (IDEA), at 34 (Code of Federal Regulations) C.F.R. §
5 300.304(b), Evaluation procedures, mandates the following with respect to evaluations
6 and re-evaluations, in pertinent part:

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

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

12 (i) Whether the child is a child with a disability under § 300.8; and
13 (ii) The content of the child's IEP, including information related to enabling
14 the child to be involved in and progress in the general education
15 curriculum (or for a preschool child, to participate in appropriate activities);

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

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

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

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

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

27 (ii) Are provided and administered in the child's native language or other
28 mode of communication and in the form most likely to yield accurate
29 information on what the child knows and can do academically,
30 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. * * *

4. An assessment is the procedure used to determine whether a student has a disability and the extent of the child's need for special education and services. See 71 Fed. Reg. 46548 (Aug. 14, 2006). A special education student must be reassessed at least once every three years, or more frequently if conditions warrant, or if a parent or teacher requests an assessment. See 34 C.F.R. 300.303(a).¹⁷

5. Tests and assessment materials must be used for the purposes for which they are valid and reliable, and must be administered by trained personnel in conformance with the instructions provided by the producer of such tests. See 20 United States Code (U.S.C.) § 1414(b)(3)(A)(iii)-(v); 34 C.F.R. § 300.304(c)(1)(iii). Under federal law, an assessment tool must provide relevant information that directly assists persons in determining the educational needs of the child. See 34 C.F.R. § 300.304(c)(7). No single procedure may be used as the sole criterion for determining whether the student has a disability or determining an appropriate educational program for the student.
See 20 U.S.C. § 1414 (b)(2)(B).

6. Assessments must be administered by trained and knowledgeable personnel and in accordance with any instructions provided by the author of the assessment tools. See 34 C.F.R. § 300.304(c)(1)(iv), (v).

¹⁷ Under Arizona law, a child with a disability means, “..(a) Means a child who is at least three years but under twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services: (i) Autism. (ii) Developmental delay. (iii) Emotional disability. (iv) Hearing impairment. (v) Other health impairments. (vi) Specific learning disability. (vii) Mild, moderate or severe intellectual disability. (viii) Multiple disabilities. (ix) Multiple disabilities with severe sensory impairment. (x) Orthopedic impairment. (xi) Preschool severe delay. (xii) Speech/language impairment. (xiii) Traumatic brain injury. (xiv) Visual impairment.

(b) Does not include a child for whom the determinant factor for the classification is one or more of the following:

(i) A lack of appropriate instruction in reading, including essential components of reading instruction. (ii) A lack of appropriate instruction in mathematics. (iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.

1 7. Tests and assessment materials must be validated for the specific
2 purpose for which they are used; must be selected and administered so as not to be
3 racially, culturally, or sexually discriminatory; and must be provided and administered in
4 the student's primary language or other mode of communication unless this is clearly
5 not feasible. See 20 U.S.C. § 1414(a)(3)(A)(i)-(iii). A school district must use a variety of
6 assessment tools and strategies to gather relevant functional, developmental, and
7 academic information to determine whether the child is eligible for special education
8 services. See 20 U.S.C. § 1414(b)(2)(A); 34 C.F.R. § 300.304 (b)(1). The assessment
9 must use technically sound instruments that assess the relative contribution of
10 cognitive, behavioral, physical, and developmental factors. See 20 U.S.C. §
11 1414(b)(2)(C); 34 C.F.R. § 300.304(b)(3).

12 8. Not every student who is impaired by a disability is eligible for special
13 education. Some students with disabilities can be adequately educated in a regular
14 education classroom. Federal law requires special education for a "child with a
15 disability," who is defined in part as a child with an impairment "who, by reason thereof,
16 needs special education and related services." See 20 U.S.C. § 1401(a)(3)(A)(ii); 34
17 C.F.R. § 300.8(a)(i.)

18 9. Under Arizona law, "All children with disabilities shall receive special
19 education programming commensurate with their abilities and needs.....If appropriate to
20 meet the needs of a pupil and to ensure access to the general education curriculum,
21 specially designed instruction that is in accordance with a pupil's individualized
22 education program may be delivered in a variety of education settings by a general
23 education teacher or other certificated personnel provided that special education
24 personnel certificated pursuant to section 15-203 are involved in the planning, progress
25 monitoring and, when appropriate, delivery of the specially designed instruction. " See
26 Arizona Revised Statutes (A.R.S.) § 15-763(A). When deciding whether a student
27 needs special education, courts apply the Rowley standard and consider whether the
28 pupil can receive some educational benefit from the general education classroom. See
29 Hood v. Encinitas Union School Dist. (9th Cir. 2007) 486 F.3d 1099, 1106 to 1107.

30 10. Upon consideration of the evidence presented at hearing, the
Administrative Law Judge concludes that Student failed to meet his burden to establish,

1 by a preponderance of the evidence, that he was eligible for special education services,
2 and that Agu Fria erred in its determination that he was no longer eligible effective
3 October 21, 2025.

4 11. Parent contended that Student's grades dropped after Student was
5 removed from special education services in the first semester of the 2025-2026 school
6 year. However, the only drop in Student's grade was in an [REDACTED] where it was
7 undisputed that Student intentionally failed to attend class and began attending two
8 instead. Parent failed to establish by a preponderance of the evidence that Student
9 received a low grade [REDACTED] because he was no longer receiving special education
10 services. Student provided no other testimonial or written evidence to show that the low
11 grade was a result of a removal from special education services.

12 12. Parent asserted that Student was previously diagnosed with an [REDACTED]
13 [REDACTED]. However, the weight of the evidence established that Student no longer has
14 an [REDACTED] that would qualify Student for special education services.
15 Student did not offer any persuasive evidence of special education eligibility under an
16 [REDACTED]. Even if Student still had an [REDACTED] such a diagnosis
17 is not enough to qualify for special education. (34 C.F.R. § 300.8(a)(1).) Student must
18 also show that the intellectual disability adversely affects his educational performance.
19 (34 C.F.R. § 300.8(c)(1)(i).

20 13. Upon receiving Parents' consent to reassess Student in August of 2025,
21 Agua Fria procedurally complied with the IDEA by conducting a comprehensive multi-
22 disciplinary re-assessment of Student in October of 2025. Lead School Psychologist,
23 School Psychologist, Speech Language Pathologist, and [REDACTED] Teacher
24 provided credible testimony at hearing.

25 14. School Psychologist was qualified to assess Student cognitively and
26 academically. Her assessment met all the required criteria for School District
27 assessments. School Psychologist's assessments showed no evidence of bias. School
28 Psychologist's test results were valid. School Psychologist incorporated her test results
29 into a written report, in which she evaluated potential eligibility based on state eligibility
30 criteria. School Psychologist credibly concluded Student showed no evidence of

1 psychological, social emotional, behavioral or pragmatic needs supporting special
2 education eligibility.

3 15. Speech Language Pathologist was similarly credible at hearing. She
4 completed a [REDACTED]. She
5 was qualified to assess Student based upon her education and experience. Speech
6 Language Pathologist conducted direct testing and observed Student. Speech
7 Language Pathologist reviewed questionnaires that were completed by four of Student's
8 teachers. Speech Language Pathologist properly concluded that Student did not qualify
9 for special education services.

10 16. [REDACTED] Teacher was Student's teacher in the [REDACTED]
11 for the entire 2025-2026 school year. [REDACTED] Teacher agreed that Student
12 did not qualify for special education services.

13 17. Student failed to offer any reliable or persuasive evidence of eligibility for
14 special education in any of the 13 categories available. No expert witnesses were called
15 to establish Student's educational needs associated with any diagnosis in any of the 13
16 categories of special education eligibility. See A.R.S. § 15-761. Student did not offer any
17 persuasive evidence of special education eligibility [REDACTED] Student failed to prove
18 that he was eligible for special education under any category at the time of the October
19 21, 2025 re-evaluation. Student provided no current evaluations or expert testimony at
20 hearing.

21 19. The weight of the evidence shows that Agua Fria performed appropriate,
22 comprehensive assessments in all areas of suspected need and obtained valid results.
23 Agua Fria convened a MET meeting and they considered Parent's input. After the team
24 determined that Student was not eligible for special education services, Lead School
25 Psychologist informed her that she could obtain an IEE at the expense of Agua Fria and
26 Parent declined.

27 20. The preponderance of the evidence shows that Student is not eligible for
28 special education services under the category of [REDACTED]
29 [REDACTED], or any other category of disability under federal or state law.
30

21. Parent failed to establish, by a preponderance of the evidence, that Agua Fria failed to conduct an appropriate evaluation in compliance with 34 C.F.R. § 300.304(b) and (c).

22. Parent failed to establish by a preponderance of the evidence that Student remained eligible for special education services effective October 21, 2025.

ORDER

Based on the findings and conclusions above,

IT IS HEREBY ORDERED that the relief requested in the Complaint is denied and the Complaint is dismissed with prejudice.

IT IS FURTHER ORDERED that all requested remedies are denied.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i) and A.R.S. § 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 court of the United States. Pursuant to Arizona Administrative 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.

Done this day, July 16, 2026.

/s/ Velda Moses-Thompson
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile to:

Jeff Studer
Arizona Department of Education
Jeffrey.Studer@azed.gov

Dr. Robin Shedrick

[REDACTED]

1 Brittany Reed, Esq.
2 Gust Rosenfeld P.L.C.
3 reed@gustlaw.com

4 Mark Yslas, Superintendent
5 Agua Fria Union High School District
6 Myslas@aguafria.org

7 Susan Plimpton Segal, Esq.
8 Gust Rosenfeld, PLC
9 spsegal@gustlaw.com

10 By: OAH Staff
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30