

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

WHITTIER UNION HIGH SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

CASE NO. 2025060632

DECISION

OCTOBER 21, 2025

On June 16, 2025, Whittier Union High School District, called Whittier, filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Student. On June 25, 2025, OAH granted the parties' joint request for continuance. Administrative Law Judge Paul H. Kamoroff heard this matter by videoconference on September 9, 16, 17, 23, and 24, 2025.

Attorney Darin W. Barber represented Whittier. Whittier's Director of Special Education, Anthony Truong, Ph.D., attended all hearing days on Whittier's behalf. Parents represented Student. OAH provided Spanish language interpreters during each day of the hearing for Mother's benefit.

At the parties' request, the matter was continued to October 8, 2025, for written closing briefs. The record was closed, and the matter was submitted on October 8, 2025.

ISSUES

1. Was Whittier's October 25, 2024, multidisciplinary assessment of Student appropriate, such that Student is not entitled to an independent educational evaluation at public expense?
2. Was Whittier's assistive technology and augmentative and alternative communication assessment of Student, dated October 24, 2024, and April 30, 2025, appropriate, such that Student is not entitled to an independent educational evaluation at public expense?

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called IDEA, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are to ensure:

- all children with disabilities have available to them a free appropriate public education, called FAPE, that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, and

- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Whittier had the burden of proof for the issues alleged in this matter. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 17 years old and in 12th grade at the time of hearing. Student resided within Whittier's geographic boundaries at all relevant times. Student was eligible for special education under the primary category multiple disabilities and secondary category intellectual disability.

ISSUE 1: THE OCTOBER 25, 2024 MULTIDISCIPLINARY ASSESSMENT

Whittier contends its October 25, 2024 multidisciplinary assessment of Student was legally compliant and appropriately conducted. Therefore, it argues it is not required to fund an independent educational evaluation requested by Parents.

Parents assert the assessment was defective because Whittier relied upon the assessment to offer a change in Student's educational placement, from a home program to a school-based program.

Before determining a student's eligibility for special education, a school district must assess the student in all areas of suspected disability. (20 U.S.C. § 1414(a), (b); Ed. Code, §§ 56320, 56321.) Reassessments must occur at least every three years, but not more than once per year, unless otherwise agreed. (20 U.S.C. § 1414(a)(2)(B); Ed. Code, § 56381, subd. (a)(2).)

Assessments must be conducted with parental consent and proper written notice, which includes a proposed assessment plan and a copy of the parent's procedural safeguards. (20 U.S.C. § 1414(b)(1); 20 U.S.C. §§ 1415(b)(3), (c)(1); Ed. Code, § 56321, subd. (a).) The plan must be in the parent's native language, clearly describe the assessments to be conducted, identify qualified assessors, and state that no individualized education program, called IEP, will result without parental consent. (Ed. Code, § 56321, subds. (b)(1)-(4); 20 U.S.C. § 1415(b)(3)-(4); 34 C.F.R. § 300.9(a).)

Assessments must use valid, reliable tools administered by qualified personnel in a non-discriminatory manner and in the student's native language. (20 U.S.C. § 1414(b)(3)(A); Ed. Code, § 56320, subds. (a), (b)(3).) Assessors must use multiple measures and incorporate relevant parent input. (20 U.S.C. § 1414(b)(2)(A); Ed. Code, § 56320, subds. (b), (e).) Adherence to the testing producer's instructions is required. (20 U.S.C. § 1414(b)(3)(A)(v); Ed. Code, § 56320, subd. (b)(3).)

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If a parent disagrees with a district's assessment, they have the right to request an independent educational evaluation at public expense. The district must then, without undue delay, either fund the independent educational evaluation or file for due process to defend its assessment. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502(b)(1)–(2); *Baquerizo v. Garden Grove Unified School Dist.* (9th Cir. 2016) 826 F.3d 1179, 1185.)

Student was eligible for special education since January 27, 2011, initially under the category orthopedic impairment. At the time, Student had infantile spasms and hyperreflexia, a dysfunction in the central nervous system, along with global developmental delays. Since then, he has been identified with multiple disabilities in addition to orthopedic impairment, including intellectual disability and autism. As a result of his disabilities, Student had significant physical and academic delays and was unable to communicate outside of grunts and eye movements. Student was wholly reliant on adult support for all tasks, such as eating, bathing, toileting, and schoolwork.

As part of its three-year reassessment, Whittier conducted a multidisciplinary evaluation. The assessment included evaluations by an education specialist, school psychologist, speech and language pathologist, and school nurse. Whittier completed the assessment on October 25, 2024, and reviewed the results the same day during an IEP team meeting. Whittier held a second part of the IEP team meeting on April 30, 2025.

Whittier relied on the results of the multidisciplinary assessment to propose a change in Student's educational placement, from instruction in the home to instruction at a school site. Parents disagreed with the IEP offer.

PARENTS' REQUEST, PRIOR WRITTEN NOTICE, AND TIMELY COMPLAINT

On May 2, 2025, Father submitted a request by email for independent educational evaluations. However, the request did not identify any specific concerns or disagreements with Whittier's assessments. In response, Whittier requested clarification from Parents regarding the basis of their disagreement. On May 15, 2025, Father replied with a list of areas he wished to have evaluated by an independent assessor but again did not explain any deficiencies or issues with the school's assessments.

On June 9, 2025, Whittier issued a prior written notice denying the request for independent educational evaluations and explaining its reasoning for the denial. (34 C.F.R. § 300.503(a) and (b).) The notice included a copy of the Parents' procedural rights and safeguards, provided in both English and Spanish—reflecting that Father's primary language is English and Mother's is Spanish. Whittier met its legal obligation to provide prior written notice outlining the reasons for denying the independent educational evaluations request. (34 C.F.R. § 300.503.)

To defend the appropriateness of its assessments, Whittier timely filed a due process complaint on June 16, 2025, which was within 45 days of receiving the Parents' request. (34 C.F.R. § 300.502(b)(2).)

THE ASSESSMENT PLAN

An assessment may not be done without parental consent. To obtain parental consent for an assessment, the school district must provide proper notice to the student and their parent. (20 U.S.C. § 1414(b)(1); Ed. Code, §§ 56321, subd. (a), 56381, subd. (a).)

The notice must include the proposed assessment plan and a copy of parental procedural rights under the IDEA and related state law. (20 U.S.C. § 1414(b)(1); Ed. Code, § 56321, subd. (a).)

Whittier determined that Student's three-year reassessments were due and proposed to reassess Student in various areas. In August 2024, Whittier provided Mother a proposed assessment plan in Spanish along with a copy of her parental procedural rights. The assessment plan denoted areas to be assessed, including:

- academic achievement;
- health;
- intellectual development;
- language/speech communication development;
- motor development;
- social emotional behavior;
- adaptive behavior;
- postsecondary transition,, and
- assistive technology and augmentative and alternative communication.

Each portion included a short description of the area to be assessed and identified an assessor for each particular area. The assessment plan was clear and easy to understand. Mother consented to the assessment plan on August 30, 2024. Whittier

timely completed the multidisciplinary assessment by October 25, 2024, less than 60 days from Mother's consent to the assessment plan. Whittier met the requirements for a lawful assessment plan. (20 U.S.C. § 1414(b)(1); Ed. Code, § 56321, subd. (a).)

THE MULTIDISCIPLINARY ASSESSMENT

Whittier selected school psychologist Darin Matsumoto, speech-language pathologist Cristina O'Reilly, education specialist Marcela Garcia, and school nurse Kaley Schiltz, to complete the multidisciplinary assessment. Each assessor was appropriately trained and knowledgeable to conduct the testing they were assigned to complete. For example, Matsumoto had an education specialist degree in school psychology, was a credentialed school psychologist for over 10 years, and had conducted over 700 psychoeducational assessments. O'Reilly had a master's degree in communication disorders, was a licensed speech-language pathologist for over 20 years, and had conducted over 500 speech and language assessments. Garcia had a master's degree in special education, was a special education teacher for six years, and had conducted approximately 30 academic assessments. As a credentialed school nurse, Schiltz was qualified to conduct the health assessment. (Ed. Code, § 56324, subd. (b).)

Whittier's assessment team conducted the testing over three days in September 2025. The purpose of the assessment was to determine if Student had a disabling condition that continued to require special education and related services, to determine present levels of performance, and appropriately revise his IEP.

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As part of his multidisciplinary assessment, the assessors did the following:

- reviewed Student's school, health, and developmental records;
- interviewed each Parent;
- interviewed Student's special education teacher;
- observed Student; and
- conducted formal and informal testing of Student.

Matsumoto also attempted to evaluate Student's intellectual ability using the Comprehensive Test of Nonverbal Intelligence, Second Edition, a standardized cognitive assessment. However, due to Student's motor and communication delays, he was unable to complete the test. This included difficulty in performing basic tasks, such as pointing to one choice among five options.

Based on a review of Student's educational records, as well as interviews and observations, Matsumoto concluded that Student demonstrated significantly below average intellectual functioning.

To assess Student's emotional and behavioral needs, Matsumoto administered the Behavior Assessment System for Children, Third Edition, a norm-referenced behavior assessment. Rating scales were completed by Student's mother, father, and teacher, Garcia. The results indicated that while Student was not aggressive, he exhibited significant delays in adaptive behavior and communication.

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Matsumoto also used the Adaptive Behavior Assessment System, Third Edition, to evaluate Student's social, adaptive, and daily living skills. Ratings provided by both parents and the teacher revealed that Student's skills were in the extremely low range across all assessed areas.

Matsumoto used the Gilliam Autism Rating Scale, Third Edition, a norm-referenced screening test, to identify severe behavioral problems that may indicate autism. Student had restricted and repetitive behaviors and severely delayed social interaction and social communication skills. His overall scores fell in the very likely range for autism spectrum disorder.

Student's teacher Garcia was tasked with assessing Student's academic needs. She observed Student and reviewed his progress toward his IEP goals. She ruled out using standardized academic testing because of Student's severe communication delays. Garcia informally tested Student's ability to identify numbers, letters, and colors, and his reading comprehension. Student identified some letters and numbers and two colors. Student answered some questions when a story was read aloud to him. Student used eye gaze, the direction and duration of a person's eye movements during communication, to identify an answer when given a choice between three flash cards. Student required constant prompting and breaks during the testing.

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To evaluate Student's speech and language abilities, speech-language pathologist O'Reilly conducted a structured observation and administered assessments of Student over the course of three days at Student's home. She used the Functional Communication Profile to evaluate Student's abilities across several domains, including,

- attention,
- receptive and expressive language,
- pragmatic language,
- speech,
- voice and fluency,
- sensory-motor skills, and
- oral and non-oral communication.

Student was non-verbal and exhibited significant delays in all areas assessed. He relied on augmentative and alternative communication methods throughout the day, including gestures, eye gaze, vocalizations, such as grunts, and other body movements to communicate.

O'Reilly also conducted an informal assessment of Student's vocabulary using a field of four picture choices. With arm-over-arm physical support to assist with pointing, Student correctly identified seven out of 10 simple nouns, five out of seven simple verbs, and two out of five noun functions. She further assessed his ability to use low-technology augmentative and alternative communication tools, such as an eye gaze board and white paddle boards, to support his communication.

The multidisciplinary assessment team determined that Student met eligibility criteria for special education under the categories other health impairment, autism, intellectual disability, orthopedic impairment, and multiple disabilities. Despite his severe impairment, Student was making steady progress toward his IEP goals.

Based on the assessment findings, the team recommended convening an IEP team meeting to review the results of the multidisciplinary assessment and determine an appropriate educational program for Student in the least restrictive environment.

Whittier presented testimony from Matsumoto, Garcia, and O'Reilly in support of the October 25, 2024 multidisciplinary assessment. Each assessor was qualified in their respective areas of evaluation and had direct knowledge of Student's educational history, abilities, and unique needs. The witnesses demonstrated care and thoughtfulness throughout their assessments and during their testimony.

The assessors provided credible and persuasive explanations for the selection of assessment tools, tailored to Student's abilities and needs. They followed standardized testing protocols where applicable and used informal measures appropriately, given Student's severe disabilities and non-verbal status. They used the tests for valid and reliable purposes and did not include the results of any testing that could not be appropriately conducted.

Their testimony reflected the skill and diligence required to assess a student with such complex needs. The multidisciplinary team assessed Student in all suspected areas of disability, and no additional evaluations were necessary to complete a comprehensive assessment.

Mother and Father testified during the hearing. Neither expressed any concerns regarding the assessment process or results. They did not object to the assessments used, question any findings, identify any flaws in the testing or areas that were not evaluated. Each parent acknowledged they were interviewed as part of the assessment process and that the report accurately captured their input and concerns regarding Student's needs and educational program.

Parents' disagreement centered on the April 30, 2025 IEP offer, specifically the proposed school-based placement and the recommendation for a low-technology augmentative and alternative communication device. However, these concerns were not related to the multidisciplinary assessment itself, which did not include recommendations for a specific placement or an assistive or augmentative and alternative communication device.

Aside from Parents' testimony, Student presented no additional witnesses or documentary evidence. As a result, there was no evidence submitted to challenge the validity or adequacy of the multidisciplinary assessment.

Whittier showed by a preponderance of the evidence that the October 25, 2024, multidisciplinary assessment of Student was appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

ISSUE 2: THE ASSISTIVE TECHNOLOGY AND AUGMENTATIVE AND ALTERNATIVE COMMUNICATION ASSESSMENT

Whittier asserts its October 24, 2024, and April 30, 2025 assistive technology and augmentative and alternative communication assessment of Student was appropriate, such that Student is not entitled to an independent educational evaluation at public

expense. Student responds the assessment was defective because Whittier relied upon the assessment to offer Student a low technology communication device as part of Student's April 30, 2025 IEP.

A school district is required to provide any assistive technology device that is necessary to provide a FAPE to a child with a disability. (20 U.S.C. § 1412(a)(12)(B)(i); 34 C.F.R. § 300.105; Ed. Code, § 56341.1, subd. (b)(5).) An IEP team must consider whether a child requires assistive technology devices or services. (20 U.S.C. § 1414(d)(3)(B)(v); 34 C.F.R. § 300.324(a)(2)(v); Ed. Code, § 56341.1, subd. (b)(5).) An assistive technology device is any piece of equipment that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities. An assistive technology service is any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. (20 U.S.C. §§ 1401(1), (2); Ed. Code, § 56020.5.) An assessment is required to formulate the type, duration, and frequency of a related service. (20 U.S.C. § 1414(b)(2), (3); 34 C.F.R. § 300.304(b)(2), (c)(4); Ed. Code, § 56320, subds. (e), (f).)

On October 24, 2024, Whittier completed an assistive technology and augmentative and alternative communication assessment of Student as part of his three-year reassessment. As addressed in Issue One, Whittier provided Parents with an appropriate assessment plan and notice of procedural rights in compliance with legal requirements.

Whittier contracted with SpedEx Consulting, a private agency, to conduct the assessment. Cheyanne Rodriguez, an assistive technology specialist, conducted the evaluation over four days in September and October 2024. Rodriguez has held an assistive technology certification since 2016, and conducted over 500 assistive

technology and augmentative and alternative communication assessments, including for students with severe disabilities. She was qualified to conduct the assessment, with expertise in both high-and low-technology assistive and augmentative and alternative communication devices. She was assisted by Whittier's speech-language pathologist O'Reilly, and education specialist Garcia.

Rodriguez's assessment process was thorough. She reviewed Student's prior assessments and educational records, conducted multiple observations of Student across different settings, interviewed both parents extensively, and gathered input from Student's service providers, including his speech-language pathologist and special education teacher. She used informal tools and criterion-referenced measures to evaluate Student's abilities and use of assistive technology and augmentative and alternative communication.

As part of the assessment, Rodriguez informally assessed Student's perceptual abilities, ambulatory needs, motor planning, and access methods. Student demonstrated the ability to visually track people and preferred objects and to select between two choices using eye gaze. He used an adaptive wheelchair and was typically seated at home during instruction. He required support to sit up, change positions, or stand, though he could ambulate around the home with adult assistance. He primarily used eye gaze to communicate with his parents and caregivers.

Rodriguez also evaluated Student's motor planning and object manipulation skills. While Student could occasionally pick up preferred items, he needed prompting and support for consistent movement.

To assess Student's augmentative and alternative communication capabilities, Rodriguez used the AAC Evaluation Genie, which includes 13 subtests designed to evaluate language comprehension and symbol recognition relevant to augmentative and alternative communication use. Student struggled with higher-technology devices but demonstrated effective use of low-technology communication tools such as flashcards and pictures.

Rodriguez trialed a low-technology eye gaze-based assistive technology augmentative and alternative communication system by presenting Student with two visual images to answer vocabulary questions. Over several sessions, Student showed strong skills using this system. Based on these results, Rodriguez concluded that Student qualified for assistive technology augmentative and alternative communication services and recommended continued use of a low-technology system due to difficulties with high-technology devices.

Rodriguez documented her findings in a written report titled Assistive Technology/Augmentative/Alternative Communication Assessment Results, dated October 24, 2024. She presented the report to the IEP team, including Parents, on October 25, 2024. The report included parental input, and Parents actively participated in the IEP team meeting discussion regarding the assessment.

At the due process hearing, both Rodriguez and O'Reilly testified credibly and persuasively in support of the assessment. They were qualified to evaluate Student's communication needs and were familiar with his educational program. O'Reilly had also provided speech and language services to Student under his IEP. Their testimony was unchallenged and supported the adequacy of the October 24, 2024 assessment, which

complied with all procedural and substantive requirements, and was completed within the required 60-day timeline. Student presented no evidence to discredit their testimony or identify deficiencies in the assessment.

Although Parents did not initially raise any concerns about the October 24, 2024 assessment, they requested that Whittier trial an additional high-technology AAC device—specifically, the Tobii Dynavox Eye Tracking Gaze AAC system. In response, Whittier again retained Rodriguez to trial this device, along with another high-technology option and the previously recommended low-technology system.

Rodriguez, assisted by O'Reilly and education specialist Nasaar Cortez, conducted the trials during February, March, and April 2025. Her findings were documented in a report titled Assistive Technology/Augmentative/Alternative Communication High-Tech Eye Tracking Gaze Trial Summary and Recommendations, dated April 30, 2025. This report was shared with the IEP team, including Parents, on the same day.

The trial results confirmed that Student continued to have difficulty using high-technology devices and demonstrated greater benefit from the low-technology eye gaze system. Whittier adopted this recommendation and incorporated the low-technology system into Student's April 30, 2025 IEP. Parents disagreed and requested an independent educational evaluation on May 2, 2025.

Parents' request did not cite any specific concerns or deficiencies with Whittier's assessments. Whittier requested clarification, and on May 15, 2025, Father provided a list of assessment areas, including the assistive technology and augmentative and alternative communication assessment he wanted independently assessed, but again failed to identify any problems with Whittier's assessment.

On June 9, 2025, Whittier issued a prior written notice denying the independent educational evaluation request. The notice included a copy of the procedural safeguards in both English and Spanish, in recognition of the Parents' respective primary languages. Whittier fulfilled its legal obligation by adequately informing Parents of its decision and the reasons behind it. (34 C.F.R. § 300.503.)

On June 16, 2025, within 45 days of Parents' request, Whittier timely filed a due process complaint to defend the appropriateness of its assessment. (34 C.F.R. § 300.502(b)(2).)

Rodriguez and O'Reilly testified credibly in support of the April 30, 2025 trial report. Their qualifications and familiarity with Student's needs were undisputed, and no evidence was presented that contradicted their conclusions or challenged the adequacy of the assessment or device trials.

Whittier mistakenly characterized the April 30, 2025 report as part of the October 24, 2024 assessment. However, the October 2024 report was a complete and legally sufficient assessment. The April 2025 document merely summarized the results of additional device trials conducted at Parents' request. By the time the April 2025 trials occurred, Whittier had already concluded—based on thorough assessment—that Student benefitted most from a low-technology assistive technology and augmentative and alternative communication system. The additional trials were undertaken in good faith to address Parents' belief that Student might be able to access more advanced technology.

As established herein, the October 24, 2024 assessment was comprehensive and met all legal standards. Accordingly, Whittier had the right to deny Parents' request for an independent educational evaluation.

A preponderance of the evidence showed that Whittier's assistive technology and augmentative and alternative communication assessment of Student, dated October 24, 2024, and April 30, 2025, was appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

ISSUE 1:

Whittier's October 25, 2024, multidisciplinary assessment of Student was appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

Whittier prevailed on Issue 1.

ISSUE 2:

Whittier's assistive technology and augmentative and alternative communication assessment of Student, dated October 24, 2024, and April 30, 2025, was appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

Whittier prevailed on Issue 2.

ORDER

1. Whittier may deny Parents' request for an independent educational evaluation for a multidisciplinary assessment.
2. Whittier may deny Parents' request for an independent educational evaluation for an assistive technology and augmentative and alternative communication assessment.

RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

PAUL H. KAMOROFF

Administrative Law Judge

Office of Administrative Hearings