

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 28, 2026

Lyle W. Cayce
Clerk

No. 25-10824

ANNIE M.; COURTNEY M.; SPENCER M.,

Plaintiffs—Appellants,

versus

ALEDO INDEPENDENT SCHOOL DISTRICT,

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CV-564

Before RICHMAN, DUNCAN, and OLDHAM, *Circuit Judges*.

STUART KYLE DUNCAN, *Circuit Judge*:

Annie M. and her parents appeal the summary judgment granted in favor of Aledo Independent School District (“AISD”) for alleged violations of the Individuals with Disabilities Education Act (“IDEA”) and the Americans with Disabilities Act (“ADA”).

We conclude that the parents’ IDEA claim fails because they did not consent to the initial evaluation AISD proposed to assess Annie’s cognitive development. In particular, we reject the parents’ argument that the IDEA gives them the right to consent only to certain aspects of AISD’s otherwise

No. 25-10824

validly proposed initial evaluation. Such a theory of “partial” consent is inconsistent with the IDEA’s text and structure and with the evidentiary record in this case. The lack of parental consent means that AISD’s obligation to provide Annie with a free and appropriate public education (“FAPE”) was never triggered. And because the parents’ IDEA claim fails, their duplicative ADA claim must also fail.

We therefore AFFIRM.

I

Annie is a five-year-old child with Down syndrome. When Annie was born, she also had a congenital heart defect, requiring open-heart surgery when she was four months old. During surgery, Annie suffered a cardiac arrest and was without oxygen for 52 minutes. Her parents were told Annie might never walk or talk. Thankfully, she has done both and much more.

When Annie turned three, her mother contacted AISD’s diagnostician, Jennifer Williams, to enroll her in special-education services under the IDEA. *See generally* 20 U.S.C. § 1412(a)(1)(A) (providing a “free appropriate public education” for “all children with disabilities residing in the State between the ages of 3 and 21”). During a call a few days later, Williams explained she would need to qualify Annie for IDEA services by performing an initial evaluation—known as a “full and individual initial evaluation” or “FIE.” Given Annie’s diagnostic history, her FIE would include cognitive testing. *See id.* § 1414(b)(3)(B) (requiring FIE to assess “all areas of suspected disability”).

Williams discussed two types of cognitive assessments with Annie’s mother: informal play-based assessments and formal cognitive assessments. The former includes the Developmental Assessment of Young Children, 2d Edition (“DAYC-2”), which does not render an official IQ score but may in some cases provide enough cognitive data to infer that a child qualifies as

No. 25-10824

intellectually disabled. Formal cognitive assessments, by contrast, generate an official IQ score that represents the child's "actual cognitive ability." If that score is below a threshold value, the child qualifies as intellectually disabled. Williams noted two examples: the Woodcock-Johnson IV Tests of Early Cognitive and Academic Development ("ECAD") and the Wechsler Preschool and Primary Scale of Intelligence ("WPPSI").

Annie's mother expressed concerns with the ECAD and WPPSI tests because she did not want AISD to score Annie's IQ and "put [her] in a box before we really know Annie." Williams clarified that she would likely evaluate Annie's cognitive performance using the play-based DAYC-2 because the formal ECAD and WPPSI tests were usually too difficult to administer to three-year-olds. But Williams cautioned that "the cognitive piece kind of depends on how play goes." If she "absolutely could not get any information [from the DAYC-2] that would lend to any kind of cognitive data," then formal testing could become necessary. After the call, Williams emailed Annie's mother several forms for Annie's FIE, including a consent form and a notice of evaluation "explain[ing] all the areas that are included in the evaluation."

Annie's mother objected to several cognitive-assessment examples listed on the notice of evaluation. In response, Williams agreed that the listed examples were generic and "[in]appropriate for [Annie]," noting that AISD used a computer program to auto-populate them. Accordingly, Williams generated a revised notice using "the examples that [she] had talked to [Annie's mother] about that were more specific for the age range for [Annie's] assessment." Among those were the three cognitive assessments she had discussed with Annie's mother on their first call.

Annie's mother continued to object, however, based on her belief that all formal cognitive tests—including WPPSI and ECAD—were

No. 25-10824

inappropriate for Annie. She crossed those tests out on the revised notice with a pen, returned the modified notice to Williams, and stated that she “consent[ed] to the rest of the form.” The result was that the only cognitive assessment she consented to was the informal DAYC-2.

AISD interpreted this response to mean that Annie’s parents were effectively “declin[ing] to consent for cognitive and achievement testing.” It cautioned that a “restricted consent form” did not meet the IDEA’s legal requirements and would prevent AISD from moving forward with Annie’s FIE. AISD stated, however, that if Annie’s parents “decide[d] to consent to a full evaluation,” it remained “ready, willing, and able to evaluate Annie for possible special education and related services under the IDEA.”

Disputing that their consent was insufficient, Annie’s parents requested an administrative due-process hearing. In response, AISD sought an administrative order compelling Annie’s parents to consent to the proposed FIE. Ultimately, the hearing officer ruled that Annie’s parents had failed to meet their “burden of proving [AISD’s] proposed evaluation included invalid, unreliable, and/or otherwise inappropriate assessments for evaluating [Annie].” The officer also ruled that AISD had “met its burden of showing reasonable grounds exist[ed] to override Parents’ lack of consent to the [FIE] proposed by [AISD] in the Revised Notice.”

In support of its ruling, the hearing officer also made several relevant findings of fact:

- None of the assessments common for children [Annie’s] age identified on the Revised Notice [is] inappropriate for a three-year-old.
- The genetic condition of Down syndrome does not render standardized formal cognitive and achievement measures, such as the WPPSI-IV and the ECAD-IV inappropriate for [Annie].

No. 25-10824

- An evaluator may be able to obtain a standardized cognitive score from the DAYC-2.
- An evaluator's ability to make recommendations for the development of an appropriate educational program to meet a student's needs in all areas of suspected disability is impaired when an intellectual disability is suspected and the evaluator does not have sufficient data from formal cognitive and achievement assessments.

Annie's parents sought reversal of the hearing officer's decision by filing a complaint in federal district court, alleging claims under the IDEA and the ADA. After the parties filed cross motions for summary judgment the district court granted summary judgment in favor of AISD on both claims.

Annie's parents now appeal to our court.

II

The IDEA permits any party aggrieved by a state hearing officer's final decision to sue in federal court. *See* 20 U.S.C. § 1415(i)(2)(A). “[A]lthough the district court must accord due weight to the hearing officer's findings, the court must ultimately reach an independent decision based on a preponderance of the evidence.” *Klein Indep. Sch. Dist. v. Hovem*, 690 F.3d 390, 394 (5th Cir. 2012) (quoting *Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. ex rel. Barry F.*, 118 F.3d 245, 252 (5th Cir. 1997)). The district court's review is therefore “virtually *de novo*.” *Ibid.* (quotation omitted).

In turn, we review “*de novo*, as a mixed question of law and fact, the district court's decision” on whether “a school district failed to provide a FAPE under IDEA.” *Id.* at 395. The district court's findings of underlying fact are reviewed for clear error. *Ibid.* “Under clear-error review, a factual finding may be reconsidered when, after reviewing all of the evidence, the court is left with the definite and firm conviction that a mistake has been

No. 25-10824

committed.” *Boone v. Rankin Cnty. Pub. Sch. Dist.*, 140 F.4th 697, 706 (5th Cir. 2025) (quotation omitted). When “there are two permissible views of the evidence, the factfinder’s choice between them cannot be clearly erroneous.” *Ibid.* (quotation omitted).

Finally, Congress “purposefully limited” our role in reviewing IDEA appeals by leaving “the choice of educational policies and methods . . . in the hands of state and local school officials.” *White ex rel. White v. Ascension Par. Sch. Bd.*, 343 F.3d 373, 377 (5th Cir. 2003) (quotation omitted). Thus, when reviewing a summary judgment, the question is not “whether there are disputed issues of fact, but rather, whether the administrative record, together with any additional evidence, establishes that there has been compliance with IDEA’s processes.” *E.R. ex rel. E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 762 (5th Cir. 2018) (quoting *Seth B. ex rel. Donald B. v. Orleans Par. Sch. Bd.*, 810 F.3d 961, 967 (5th Cir. 2016)); *see also Spring Branch Indep. Sch. Dist. v. O.W. ex rel. Hannah W.*, 961 F.3d 781, 790 (5th Cir. 2020) (discussing “more expansive” review of summary judgments in IDEA cases (quoting *E.R.*, 909 F.3d at 762)).

III

Taking the IDEA claim first, we (A) sketch the relevant IDEA provisions; (B) summarize the parties’ arguments; and (C) assess whether the district court erred in ruling that AISD did not violate the IDEA.

A

The IDEA requires school districts to identify, locate, and evaluate children with disabilities. *See* 20 U.S.C. §§ 1412(a)(3), 1414(a)–(b). Until a district determines that a child has a qualifying disability under the IDEA, it has no statutory duty to provide a FAPE to that child. *Id.* § 1412(a)(1)(A). To make this determination, districts conduct an FIE that assesses “all areas of suspected disability,” *id.* § 1414(b)(3)(B), including “physical

No. 25-10824

development; cognitive development; communication development; social or emotional development; or adaptive development,” *id.* § 1401(3)(B)(i).

No “single measure or assessment” may be used to determine whether a child has a disability. *Id.* § 1414(b)(2)(B). Instead, a district must use a “variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child.” *Id.* § 1414(b)(2)(A). The assessments must be “technically sound,” *id.* § 1414(b)(2)(C), and administered in the “form most likely to yield accurate information,” *id.* § 1414(b)(3)(A)(ii). To that end, districts must employ “trained and knowledgeable personnel,” *id.* § 1414(b)(3)(A)(iv), who administer assessments for “valid and reliable” purposes, *id.* § 1414(b)(3)(A)(iii). Districts need not use any specific assessment for a given FIE. Rather, they can use any “assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.” *Id.* § 1414(b)(3)(C).

Before a district conducts an FIE, however, it “shall obtain informed consent from the parent of such child.” 20 U.S.C. § 1414(a)(1)(D)(i)(I); *see also* 34 C.F.R. § 300.300(a)(1)(iii) (requiring district to “make reasonable efforts” to obtain parents’ consent). Parents are informed through notices detailing the procedures and assessments the district believes appropriate. 20 U.S.C. §§ 1414(b)(1), 1415(c)(1). The parents’ consent to the proposed FIE triggers the district’s duty to conduct the FIE within a reasonable time and, if the child qualifies as disabled, to provide her a FAPE. *Id.* § 1414(a)(1)(D)(i)(I). If parents refuse consent, a district may seek an order overriding their lack of consent through a due-process hearing. *Id.* § 1414(a)(1)(D)(ii)(I). The district need not do so, however. Parents’ withholding consent obviates a district’s duty to provide that child a FAPE even if it suspects the child has a qualifying disability. *Id.* § 1414(a)(1)(D)(ii)(III)(aa).

No. 25-10824

B

Annie’s parents argue their consent to Annie’s FIE was sufficient despite the fact that they consented only to some of the assessments listed in the modified notice, while rejecting others. Relying on a theory of “partial consent,” they contend the assessments they agreed to covered “all areas of [Annie’s] suspected disability.” Because that consent was sufficient, the argument continues, AISD had a duty to evaluate Annie, qualify her for benefits, and provide her a FAPE. By not doing so, they claim AISD violated the IDEA.

AISD counters that the key point is whether its proposed assessments for Annie’s FIE complied with the IDEA. If they did, that left Annie’s parents a straightforward choice: consent or refuse. Annie’s parents refused consent, AISD argues, which obviated its obligation to provide Annie a FAPE.

C

Our discussion proceeds in three steps. First, we explain why AISD’s proposed FIE—including the formal WPPSI and ECAD tests—complied with the IDEA. Second, we explain why the IDEA does not require a school district to accept parents’ “partial” consent to a validly proposed FIE. Third, we explain why AISD used reasonable efforts to obtain parental consent for Annie’s FIE.

Putting these pieces together, we hold that Annie’s parents never consented to the validly proposed FIE, which means that AISD’s further obligations under the IDEA were never triggered.

1

We first consider whether, as the parents contend, the district court erred by finding that the WPPSI and ECAD tests were properly included in

No. 25-10824

Annie's FIE. Whether these assessments were appropriate is an issue of fact we review for clear error. *Seth B.*, 810 F.3d at 967. Moreover, the hearing officer's fact findings receive "greater deference" when supported by "credibility determinations." *Lisa M. ex rel. J.M. v. Leander Indep. Sch. Dist.*, 924 F.3d 205, 218 (5th Cir. 2019).

The IDEA defines the contours of an acceptable FIE broadly. Schools may use "a variety of assessment tools and strategies" that are "technically sound" and administered in the "form most likely to yield accurate information" for "valid and reliable" purposes. 20 U.S.C. § 1414(b)(2)(A)–(C), (b)(3)(A)(ii)–(iii), (b)(3)(C). Put another way, assessments must "provide relevant information that directly assists persons in determining the educational needs of the child." *Id.* § 1414(b)(3)(C).

Here, the record amply shows that Annie's FIE appropriately included the ECAD and WPPSI assessments. Recall the hearing officer's findings. The officer found that "[n]one of the assessments" in the revised notice—including ECAD and WPPSI—were "inappropriate for a three-year-old," as Annie was at the time. She also found that "[t]he genetic condition of Down syndrome does not render standardized formal cognitive and achievement measures, such as WPPSI-IV and the ECAD-IV, inappropriate for [Annie]."

These findings were supported by testimony from the due-process hearing. For instance, Dr. Jill Keith testified that none of the evaluation measures in the revised notice were "inappropriate" for a three-year-old and that there was nothing wrong with "conduct[ing] any standardized formal cognitive and achievement measures" on a Down syndrome child. Williams likewise testified that the ECAD and WPPSI could each provide "helpful information" on Annie's "strengths" and "things that [she] might have difficulty with."

No. 25-10824

On appeal, the parents contend it is “false” that “there is ‘no evidence’” indicating “these specific tests are ‘inappropriate’ for Annie.” But they point to no evidence in support of this contention. Instead, they claim whether ECAD and WPPSI could be appropriate for Annie is “immaterial.”

We disagree. Mindful of the deference owed to the hearing officer’s findings, and given the testimonial support underlying them, we are not “left with the definite and firm conviction that a mistake has been committed.” *Boone*, 140 F.4th at 706. Accordingly, we conclude that the district court did not err, clearly or otherwise, in finding the ECAD and WPPSI were appropriately included in Annie’s FIE.

2

Next, we address the parents’ argument that their partial consent to the FIE was sufficient.

As noted, the IDEA provides that a district “shall obtain informed consent from the parent of such child before conducting the [FIE].” 20 U.S.C. § 1414(a)(1)(D)(i)(I). Fleshing out this command, the implementing regulations require parents to be “fully informed of all information relevant to the activity for which consent is sought.” 34 C.F.R. § 300.9(a). Their consent, in turn, must be provided “in writing” for “the carrying out of the activity for which his or her consent is sought, and the consent [must] describe[] that activity.” *Id.* § 300.9(b).

The parents argue that, consistent with the IDEA, they could validly consent only to some of the cognitive tests included in Annie’s FIE (informal assessments), while rejecting others (formal assessments). They point out that the IDEA does not explicitly require “full” consent to a proposed FIE and so, they say, the statute is consistent with “partial” consent. Second, by consenting to the informal DAYC-2 test, the parents contend they provided

No. 25-10824

consent for at least one assessment in each area of Annie’s suspected disabilities, thus covering the full scope of Annie’s evaluation. We disagree for at least three reasons.

First, the parents’ argument finds no support in the IDEA’s text. The statute says nothing about “partial” consent. Rather, it requires parents’ “consent” to a proposed FIE, full stop, before the district is authorized to conduct an initial evaluation. *See* 20 U.S.C. § 1414(a)(1)(D)(i)(I). The parents here envision a different process—one in which they can redline a proposed FIE, consent only to part, and still trigger the district’s evaluative obligations. We agree with AISD that nothing in the IDEA’s text contemplates that parents may treat a proposed FIE as a “menu of selections.”

Second, the parents’ argument is inconsistent with the IDEA’s division of responsibilities between districts and parents. The statute places the onus of an initial evaluation on the district, *see id.* § 1414(a)(1)(A), and accordingly affords districts latitude in designing the FIE and choosing assessment tools and strategies.¹ To be sure, parents must be “fully informed” about the content of a proposed FIE. 34 C.F.R. § 300.9(a). But nothing in the IDEA’s structure suggests that parents may, by selective

¹ *See id.* § 1414(b)(2)(A)(i) (requiring district to “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining . . . whether the child is a child with a disability”); *id.* § 1414(b)(2)(B) (requiring district “not [to] use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability”); *id.* § 1414(b)(2)(C) (requiring district to “use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors”); *id.* § 1414(b)(3)(B) (requiring district to ensure that “the child is assessed in all areas of suspected disability”).

No. 25-10824

consent to a proposed FIE, require a district to conduct an initial evaluation using only the assessment tools the parents prefer.²

Third, the parents' argument is undermined by the record. Their premise is that the informal DAYC-2 assessment would alone be sufficient to ensure Annie's cognitive development is properly evaluated, making the formal cognitive tests unnecessary. But the record shows otherwise. Relying on uncontradicted evidence, the hearing officer found that evaluators typically cannot determine which precise assessments are needed for an initial evaluation until they interact with a given child.³

² The parties discuss cases concerning the required parental consent for IDEA-mandated reevaluations and Individualized Education Programs ("IEPs"). *See, e.g., Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105 (9th Cir. 2016); *G.J. ex rel. E.J. v. Muscogee County School District*, 704 F. Supp. 2d 1299 (M.D. Ga. 2010), *aff'd*, 668 F.3d 1258 (11th Cir. 2012); *A.H. ex rel. A.H. v. Clarksville-Montgomery Cnty. Sch. Sys.*, No. 3:18-cv-812, 2019 WL 483311 (M.D. Tenn. Feb. 7, 2019); *J.V. ex rel. Veldhuyzen v. Stafford Cnty. Sch. Bd.*, 792 S.E.2d 286 (Va. Ct. App. 2016). Those cases are inapposite, however, because the balance of parental rights and district authority at the FIE stage is different. Once a child qualifies for IDEA benefits, parents gain the right to make "decisions on the educational placement of their child," 34 C.F.R. §§ 300.327, 300.501, and schools become obligated to provide a FAPE and an IEP. These rights and obligations do not exist at the FIE stage.

³ For example, Dr. Keith testified that "it would be impossible to provide parents with an exhaustive list of each test that might be performed" because "evaluators do not know which measure will best represent a child's abilities until they begin working with the child." For that reason, he explained that "[l]imiting an evaluation to only those measures identified on an evaluation notice deprives the evaluator of the ability to pull in additional measures that might be necessary" to properly evaluate a child. Similarly, the hearing officer noted Williams had informed the parents "that the specific tests a diagnostician needs to use with a particular student cannot be determined until the diagnostician meets the student and begins collecting data."

None of this testimony was contradicted by the parents' expert, Dr. Peak. On cross examination, for example, Dr. Peak was asked whether she had "a specific test assessment battery that [she would] recommend for Annie." In response, Dr. Peak stated only that the DAYC-2 would be "a good place to start," that she "might do the DP-4," and that she predicted this would "give everything needed for a three-year-old."

No. 25-10824

The hearing officer also concluded, based on both Williams's and Dr. Keith's testimony, that it was uncertain whether the DAYC-2 would generate sufficient cognitive data for Annie. The officer went on to caution that an evaluator's ability to fully assess a student would be "impaired" if the evaluator lacked "sufficient data from formal cognitive and achievement assessments." Those findings underlie the officer's conclusion that the parents' attempt to "eliminat[e] assessments" like the formal cognitive tests "would deprive evaluators of the ability to pull in additional measures that might be necessary in order to accurately identify [Annie's] strengths and needs."

In sum, the parents' contention that "partial" consent to an FIE suffices is contradicted by the text and structure of the IDEA and also by the evidentiary record in this case.

3

Finally, we consider whether AISD made "reasonable efforts" to obtain informed parental consent for Annie's initial evaluation. *See* 34 C.F.R. § 300.300(a)(1)(iii).

Annie's parents argue that AISD's "take-it-or-leave-it testing proposal" was unreasonable because it did not allow for "meaningful parental involvement." They urge that the school district was instead required to have "conversations with parents to understand their preferences and limits, and concessions where 'reasonable.'" We disagree and see no error in the district court's ruling that AISD made reasonable efforts to obtain the parents' informed consent.

AISD's efforts in this case were reasonable by any measure. For instance, Williams communicated repeatedly with Annie's mother by email and phone about her concerns over Annie's possible assessments. Williams also generated a revised notice of evaluation when Annie's mother objected

No. 25-10824

to the original notice. AISD then met with Annie's parents in person to discuss their concerns about the proposed FIE. And AISD represented to Annie's parents that it remained "ready, willing, and able to evaluate Annie" if they changed their minds. As AISD's brief explains, the district even offered to allow Annie's parents "to observe the full evaluation process and revoke consent for the evaluation at any point if they disagreed with the assessments used." The district court accurately summarized AISD's diligence in this regard: "The Court concludes that this case is an excellent example of what is legally required by the school district and the parents['] right to consent or refuse consent, but not dictate or limit areas in which the district can evaluate for a suspected disability."

* * *

To sum up: we find no error in the district court's ruling that the parents did not consent to AISD's validly proposed FIE and that, consequently, AISD did not violate its obligations under the IDEA.

IV

We turn to the ADA claim.

Annie's parents argue AISD violated the ADA "by denying Annie a reasonable, requested modification to testing"—specifically, the removal of the ECAD and WPPSI assessments from Annie's FIE. As a result, they contend AISD denied Annie "access to services" she would have received after qualifying for a FAPE under the IDEA. Rejecting this claim, the district court reasoned Annie did not meet the ADA's definition of "an individual with a disability" because AISD had never evaluated Annie for disabilities. Alternatively, the court reasoned the ADA claim would fail because the record showed no evidence of "intentional discrimination."

No. 25-10824

Both grounds for the district court’s ruling were incorrect. To qualify as disabled, the ADA does not require an individual to undergo IDEA-specific testing. Instead, the court need determine only that someone has “a physical or mental impairment that substantially limits one or more [of her] major life activities.” 42 U.S.C. § 12102(1)(A). Nor were the parents required to prove intentional discrimination in order to obtain equitable relief. *See Miraglia v. Bd. of Supervisors of La. State Museum*, 901 F.3d 565, 573 (5th Cir. 2018) (noting that in the ADA context, “the distinguishing element of whether a plaintiff is entitled to damages, rather than merely equitable relief” is “intent”); *see also T.O. v. Fort Bend Indep. Sch. Dist.*, 2 F.4th 407, 417 (5th Cir. 2021) (“Evidence of intentional discrimination is necessary to support a claim for monetary damages, but a plaintiff seeking only equitable relief may succeed on a disparate impact theory.”).

AISD proposes an alternative ground for affirmance, however. *See Lauren C. ex rel. Tracey K. v. Lewisville Indep. Sch. Dist.*, 904 F.3d 363, 374 (5th Cir. 2018) (citing *Britt v. Grocers Supply Co.*, 978 F.2d 1441, 1449 (5th Cir. 1992)) (explaining we “may affirm on grounds other than those relied upon by the district court when the record contains an adequate and independent basis for that result”). It argues that the resolution of the IDEA claim in the district’s favor should preclude the parents’ duplicative ADA claim. The parents disagree, arguing that the “ADA and IDEA issues are *not* identical,” so preclusion “is plainly inapplicable.”⁴ We agree with AISD.

Given the substantial overlap in remedies between the two statutes, “the resolution of an IDEA claim in the school district’s favor will

⁴ The parties do not discuss forfeiture, and so we do not address whether this alternative argument was raised in the district court.

No. 25-10824

frequently preclude parents' resort to redundant claims under ... [the] ADA." *D.A. ex rel. Latasha A. v. Hou. Indep. Sch. Dist.*, 629 F.3d 450, 454 (5th Cir. 2010). Such is the case here. The parents' ADA claim depends entirely on their claim that AISD violated the IDEA by refusing to remove the formal cognitive assessments from Annie's FIE. As discussed, though, that IDEA claim fails. *See supra* Part III.C. It stands to reason that the duplicative ADA claim must also fail.

In sum, we affirm on this alternate ground the grant of summary judgment on the ADA claim.

V

The district court's judgment is AFFIRMED.

No. 25-10824

ANDREW S. OLDHAM, *Circuit Judge*, dissenting:

Annie M., a young girl with Down Syndrome, is guaranteed a free appropriate public education from the Aledo Independent School District (“Aledo” or “the District”). But Aledo has denied her the chance to set foot in a classroom.

Why? Because, the District says, Annie’s parents must agree to subject her to IQ tests that the school’s own representative said she would not give, and indeed could not give, because they are useless for assessing children like Annie. ROA.133–34. In my view, this position is inconsistent with federal law. So with greatest respect for my colleagues who see the case differently, I must dissent.

I

This case turns on two questions. First, does the Individuals with Disabilities Education Act (“IDEA”) require Annie’s parents to consent to IQ tests that Aledo itself said it would not give and that are irrelevant? And second, did Aledo make the reasonable accommodations required by the Americans with Disabilities Act (“ADA”)? The answer to both questions is no. So the district court erred in granting Aledo’s motion for summary judgment.

A

IDEA provides federal funding to educate children with disabilities. 20 U.S.C. § 1400(c). It also requires the school to get informed consent from parents. Specifically, the “agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability . . . shall obtain informed consent from the parent of such child before conducting the evaluation.” *Id.* § 1414(a)(1)(D)(i)(I). The question is whether “informed consent” means blanket consent to any and all tests that the District could

No. 25-10824

hypothetically dream up, or whether it instead means consent to mutually agreeable and practicable tests.

In my view, it's the latter.

To interpret the consent provision, we must look to the “particular statutory language at issue, as well as the language and design of the statute as a whole.” *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988). As a whole, IDEA establishes a cooperative regime. “The core of the statute . . . is the cooperative process that it establishes between parents and schools.” *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53 (2005); accord *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 205–06 (1982) (“Congress placed . . . emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process.”).

Cooperation runs through the whole statute. Parents and guardians play key roles in all parts of the IDEA process. They must be informed about and consent to evaluations of their child under the Act. 20 U.S.C. § 1414(c)(3). They are included as key members of Individualized Education Program (“IEP”) teams. *Id.* § 1414(d)(1)(B). They have the right to examine any records about their child and to get an “independent educational evaluation of the[ir] child.” *Id.* § 1415(b)(1). They must be given written notice of any changes to their child’s IEP. *Id.* § 1415(b)(3). They must be notified in writing of the Act’s procedural safeguards. *Id.* § 1415(d)(1). And if the parent believes that an IEP is inappropriate, they can seek and participate in an administrative hearing. *Id.* § 1415(f).

Regulations also reveal the critical role that parents play in the evaluative process. The implementing regulations suggest that consent is evaluated on an activity-by-activity basis. Consent means “[t]he parent understands and agrees in writing to the carrying out of the activity for which

No. 25-10824

his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom.” 34 C.F.R. § 300.9. These regulations indicate consent is provided for a particular “activity” for which consent is sought. That reading means that parents can consent to particular evaluations, so long as the parents’ consent lets the school test in all areas of the proposed disability.

Thus, with greatest respect to the majority, I am unconvinced that IDEA requires all-or-nothing consent. Under the majority’s reading, the District could force Annie’s parents to consent to unquestionably spurious psychological “assessments” while at the same time assuring the parents those tests would not be used. That reading runs contrary to the cooperative scheme that IDEA establishes.

B

Annie should also succeed on her ADA claims. The ADA prohibits discrimination based on disability in various areas of life, including public education. 42 U.S.C. § 12101. In addition, the ADA imposes “upon public entities an affirmative obligation to make reasonable accommodations for disabled individuals.” *Bennett-Nelson v. La. Bd. of Regents*, 431 F.3d 448, 454 (5th Cir. 2005). An accommodation is reasonable (and thus mandatory) if it “does not impose undue financial or administrative burdens or fundamentally alter the nature of the service, program, or activity.” *Cadena v. El Paso Cnty.*, 946 F.3d 717, 724 (5th Cir. 2020) (quotation omitted).

Annie appears to state both a discrimination claim and a failure to accommodate claim. ROA.24–26. She should win on both counts.

As to the first, all Annie must show is a qualifying disability, denial of the benefit of services, and that her disability was the reason for that denial. *Hale v. King*, 642 F.3d 492, 499 (5th Cir. 2011) (per curiam). Annie is

No. 25-10824

disabled, was denied services, and the denial was obviously the result of her disability. So she falls within the ADA's sweep.

Annie's failure to accommodate claim follows a similar path. To make such a claim, Annie must show that (1) she has a disability; (2) the disability and its consequential limitations were known by the covered entity; and (3) the entity failed to accommodate her. *Feist v. La., Dep't of Just., Off. of Att'y Gen.*, 730 F.3d 450, 452 (5th Cir. 2013). It is clear that Annie is disabled and that her disability is known to Aledo. *See, e.g.*, Red. Br. at 32 ("[T]he record evidence clearly indicates that IQ testing is appropriate for children with Down syndrome . . ."). And Aledo did not reasonably accommodate Annie's disability. An accommodation request is "reasonable" so long as "it does not impose undue financial or administrative burdens or fundamentally alter the nature of the service, program, or activity." *Cadena*, 946 F.3d at 724 (quotation omitted). As with the IDEA, Aledo cannot show how removing two tests the school's own expert said were unnecessary would impose significant costs, "fundamentally alter" the District's services, or impose a burden on the District at all. ROA.1415.

In finding to the contrary, the majority opinion collapses the IDEA and ADA inquiries. That course contradicts the Supreme Court's instruction "that nothing in the IDEA 'restrict[s] or limit[s] the rights [or] remedies' that other federal laws, including antidiscrimination statutes, confer on children with disabilities." *A.J.T. ex rel. A.T. v. Osseo Area Schs., Indep. Sch. Dist. No. 279*, 605 U.S. 335, 348 (2025) (quotation omitted).

Thus, I respectfully depart from the majority's decision that a failure to satisfy IDEA means that Annie's accompanying ADA claims fail too. IDEA and the ADA are separate and independent statutes that protect the rights of disabled students in different ways. Annie should enjoy the full protection of both.

No. 25-10824

II

For more than a century, Americans like Annie have faced a “number of dubious or pseudo-scientifically rationalized interventions that have been popularized and widely adopted as fads or on the grounds of either theory alone or in conformance with politically correct ideology.” John W. Jacobson, et al., *History of Fad, Pseudoscientific, and Dubious Treatments in Intellectual Disabilities: From the 1800s to Today*, in *CONTROVERSIAL THERAPIES FOR AUTISM AND INTELLECTUAL DISABILITIES* 45, 49. (Richard M. Foxx & James A. Mulick eds., 2015). Even in recent years, scientists thought dubious theories, tests, and treatments helped disabled people. *Id.* at 49–50 (recounting how various therapies—psychomotor patterning, gentle teaching, sensory integration theory, auditory integration, facilitated communication, nonaversive intervention, and biological or alternative medical interventions—were peddled as scientific, helpful innovations that could improve the lives of disabled citizens). But we now know that they were misguided. *See ibid.* What was once “scientific truth” is now dangerous fiction.

IDEA should prevent disabled children from being subjected to such quackery. The law was designed to “ensure that the rights of children with disabilities and parents . . . are protected,” 20 U.S.C. § 1400(d)(1)(B), to “ensure that educators and parents have the necessary tools to improve educational results for children with disabilities,” *Id.* § 1400(d)(3), and to “assess, and ensure the effectiveness of, efforts to educate [such] children.” *Id.* § 1400(d)(4).

I read IDEA and the ADA to end the unquestioning scientism of yesteryear. So I respectfully dissent.