

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WALNUT VALLEY UNIFIED SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015111012

**DECISION**

Walnut Valley Unified School District filed a due process hearing request with the Office of Administrative Hearings on November 24, 2015, naming Parents on behalf of Student. OAH continued the hearing at the parties' request on December 10, 2015.

Administrative Law Judge Kara Hatfield heard this matter in Walnut, California, on March 2, 3, and 14, 2016.

Angela Gordon and Siobhan Cullen, Attorneys at Law, represented District. Judi Koorndyk, District's Director of Special Education, attended the hearing on March 2 and 3, 2016. Jean Harris Hicks, District's Coordinator of Special Education, attended the hearing on March 14, 2016.

Surisa Rivers and Sarah Gross, Attorneys at Law, represented Student. Mother and Father attended the hearing. Student did not attend the hearing.

At the request of the parties, OAH continued this matter for written closing arguments. The record closed on March 29, 2016, upon receipt of written closing arguments from the parties.

## ISSUES<sup>1</sup>

Was District's April 23, 2015 psychoeducational assessment,<sup>2</sup> conducted in preparation for Student's triennial individualized education program team meeting, appropriate under the Individuals with Disabilities Education Act, such that Student is not entitled to an independent educational evaluation at public expense?

## SUMMARY OF DECISION

District contends its April 23, 2015 psychoeducational reassessment was conducted in accordance with all necessary requirements, and that Student therefore is not entitled to an independent educational evaluation at public expense.

Student contends District's reassessment was not appropriately conducted and that he is entitled to an independent evaluation at public expense.

The Decision finds that District met its burden of demonstrating that its reassessment of Student was appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

## FACTUAL FINDINGS

### *Background*

1. Student was 16 years and six months old at the time of hearing. At all relevant times, he resided with Father and Mother within the boundaries of District. Student attended school in another district for kindergarten and first grade, and was found eligible for special education and related services as a student with a speech and language impairment in 2006. Student attended a private religious school for several years after that. He entered District as a seventh grade student and has attended District's public schools since the 2012-2013 school year.

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<sup>1</sup> The issue has been rephrased and reorganized for clarity. The ALJ has authority to redefine a party's issues, so long as no substantive changes are made. (*J.W. v. Fresno Unified School Dist.* (9th Cir. 2010) 626 F.3d 431, 442-443.)

<sup>2</sup> At hearing, Student acknowledged that although the results of District's speech and language assessment were reported and included in the Psychoeducational Report at issue, Student's disagreement with the speech and language assessment had already been resolved through an independent educational evaluation at public expense. The speech and language component of the Psychoeducational Report was therefore no longer included in the issue for this due process hearing.

2. District conducted a triennial reassessment of Student and held a triennial IEP team meeting in October 2012. Student's eligibility continued to be for speech and language impairment.

3. At Student's annual IEP team meeting in October 2013, District's speech therapist recommended that Student be exited from special education. Parents requested that Student continue to receive special education and related services due to Student's inability to consistently verbally express his thoughts and sentences. District continued to provide Student two 30-minute sessions of group speech therapy each month. He participated in general education classes.

4. Student started high school in the 2014-2015 school year. Student was enrolled in the Academic Foundations college preparatory curriculum, which included higher level coursework than the general high school curriculum for freshmen and required more homework, approximately three to four hours per night. At Student's annual IEP team meeting in September 2014, Parents continued to have concerns about Student's expressive language, despite District's recommendation that Student be exited from speech therapy. District suggested testing by the school psychologist and educational specialist to further assess Student's learning styles and abilities related to academic language reception and expression. Student was performing satisfactorily in all his classes except geometry, and after the September 2014 IEP team meeting, District changed Student to a different geometry class.

#### *District's Spring 2015 Assessments*

5. On February 2, 2015, District received Parents' written request to assess Student. Parents believed Student had challenges other than in speech and language, such as an auditory processing disorder, because of a suggestion at a prior IEP team meeting about investigating this possibility and they had observed Student struggle with school work at home. Parents requested assessments for psychoeducation, intellect, speech and language, social/emotional, and assistive technology. Parents also requested an assessment by an audiologist regarding central auditory processing disorder.

6. District created an assessment plan, which Father signed on February 10, 2015. District received the signed assessment plan on February 25, 2015. District proposed a triennial assessment plan to assess Student in the areas of academic achievement, health, intellectual development, language/speech communication development, social/emotional, and central auditory processing disorder. District personnel conducted all portions of the assessment, except District contracted with Christensen Hearing Center, Sherrie Hoglin, Au.D.,<sup>3</sup> to conduct the assessment for central auditory processing disorder.

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<sup>3</sup> Doctor of Audiology.

7. Robert Coad was the school psychologist at Student's high school assigned to conduct the psychoeducational assessment of Student. Mr. Coad held a master of arts degree in psychology and had been a credentialed school psychologist and credentialed school counselor for 17 years at the time he assessed Student. He had been a school psychologist at Student's high school for those 17 years and had conducted over 700 assessments for special education, and had also worked with general education students on a campus with 2,600 to 3,000 students. He sent Parents a written parent history student assessment form, and a parent rating scale form for the Behavior Assessment System for Children, Second Edition. Parents completed these forms, providing information about Student's background and behavior. Mother wrote her name on the Behavior Assessment form as the person who was rating Student, but Mother and Father collaborated on the form and reached consensus about the response on each item. The school psychologist was not aware that both parents' perceptions of Student were reflected in the Behavior Assessment form, and he believed that only Mother had completed the form because only her name was written on the form. Parents' rating of Student's behavior did not report serious concerns or challenges in any area, and were all within normal limits, with the exception of a mild concern regarding a tendency to be easily distracted and to sustain focus, although his score in this area was still well below a score that would be considered "moderately atypical" or "markedly atypical" on the behavior assessment's scale.

8. Reva Collier was the special education teacher at Student's high school who administered academic tests to Student. Ms. Collier earned her master's degree in education in 2008, and had a mild/moderate teaching credential, with an autism certificate and an English Language Development certificate. At the time of hearing, she was in her 11th year of teaching. She had administered standardized academic testing to approximately 13 students per year for each of her 11 years of teaching. Ms. Collier assessed Student using the Woodcock-Johnson Tests of Achievement, Third Edition, which was the edition of the test available at the time she administered it. The Tests of Achievement are designed to show a student's strengths and weaknesses in the area being assessed. The special education teacher administered three subtests in each of three areas: reading, writing, and math. The subtests she used were: Letter Word Identification; Reading Fluency; Passage Comprehension; Spelling; Writing Fluency; Writing Samples; Calculation; Math Fluency; and Applied Problems.

9. The evidence established: 1) the special education teacher was qualified to conduct the assessment and/or use the evaluative instrument involved, by education, training, licensure and/or experience; 2) each assessment instrument she administered was used for the purpose for which it was designed or validated, was selected and administered so as not to be racially, sexually or culturally discriminatory, was provided in Student's primary language, and was administered in accordance with any instructions provided by the producer of the test instruments; and 3) the results obtained from the assessments she administered were valid and reliable. The special education teacher did not remember anything remarkable about her administration of these tests to Student, which was unusual because in her experience administering academic testing to students suspected of having a disability, there was commonly something different from the norm that occurred.

10. The Tests of Achievement are based on an average standard score of 100, with scores from 90 to 110 being in the average range, scores from 89 to 85 being low average, but still referred to as average, and scores 84 and below were in the below average range. Student's scores on eight subtests were in the average range, varying from 90 to 99, and his score on one subtest, Passage Comprehension, was below average, at 82.

11. The school psychologist administered three additional subtests of the Tests of Achievement: Oral Comprehension; Reading Vocabulary; and Picture Vocabulary. Student's scores were 91, 89, and 89, respectively.

12. The school psychologist administered two cognitive assessments. First, he administered the Cognitive Assessment System, First Edition, the only version available at the time of the assessment. The Cognitive Assessment System provides information about a student's cognitive processing abilities and is made of separate scales called Planning, Attention, Simultaneous, and Successive cognitive processing. The Cognitive Assessment System was based on an average standard score of 100, with scores from 85 to 115 being in the average range of cognitive functioning, with 85 to 89 in the low average and 111 to 115 in the high average range. Scores 84 and below were in the below average range, and scores that exceeded 115 were in the superior range. Student's standard scores on each of the four scales of the instrument were 115, 88, 103, and 103, and his full scale score was 103. This means that Student received average scores in each area assessed.

13. Second, the school psychologist administered five subtests of the Woodcock-Johnson Tests of Cognitive Abilities, Third Edition, to supplement, complement, and cross-validate Student's scores on the Cognitive Assessment System. The subtests used were Verbal Comprehension, Numbers Reversed, Retrieval Fluency, Rapid Picture Naming, and Memory for Words. The Tests of Cognitive Abilities was based on an average standard score of 100, with scores from 90 to 110 being in the average range. The two composite scores derived from the five subtests of the Tests of Cognitive Abilities administered to Student were 105 and 96. Student's standard scores on the five subtests ranged from 90 to 113. Again, Student scored within the average range in each area tested.

14. The school psychologist administered the Developmental Test of Visual Motor Integration, to evaluate Student's ability to integrate visual stimuli with fine motor responses. Student's standard score was 89, at the low end of the average range.

15. The school psychologist observed Student during the testing he administered. He spoke to Student and obtained information about Student and how he perceived himself, including his strengths and challenges. The school psychologist also observed Student at school, during his biology class.

16. The school psychologist reviewed Student's academic records, transcripts, and prior assessment results. The triennial assessment included a review of Student's past grades (a majority of A's and B's and no grades below a C) and prior assessments. The report also

documented that on state standardized testing from middle school, Student scored Basic in English language arts, Proficient in math, and Proficient in science. Student had not received any below average scores on statewide testing.

17. The school psychologist assessed Student's social/emotional status through the parent history student assessment form; the Behavior Assessment System for Children parent rating scale; reports from Student's teachers; and interview and observation of Student. Student had good interpersonal skills, appropriate behavior, and was free from high levels of personal distress. Student's social manner was an area of personal strength.

18. The evidence established: 1) the school psychologist was qualified to conduct the assessments and/or use the evaluative instruments involved, by education, training, licensure and/or experience; 2) he used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student, including information provided by Parents; 3) each assessment instrument he administered or procedure he used was used for the purpose for which it was designed or validated, was selected and administered so as not to be racially, sexually or culturally discriminatory, was provided in Student's primary language, and was administered in accordance with any instructions provided by the producers of the test instruments; and 4) the results obtained from the assessments he administered were valid and reliable.

19. Parents had expressed concern about Student's auditory processing. Student's auditory processing was evaluated by the school psychologist, through the standardized tests of the Successive Scale component of the Cognitive Assessment System, the Short Term Memory composite score of the Tests of Cognitive Abilities, and the Oral Comprehension subtest of the Tests of Achievement, and informally embedded throughout the standardized testing process, which required Student to understand explanations of tasks given to him and follow verbal instructions. The school psychologist did not find anything that indicated deficits in Student's auditory processing, and he did not think further investigation of this area was needed.

20. Student's auditory processing was also evaluated by Sherrie Hoglin, a licensed doctor of audiology. On April 8, 2015, Dr. Hoglin conducted a Central Auditory Processing Evaluation for Student, and issued a written report of her findings. Dr. Hoglin did not discover a deficit in auditory processing, despite conducting a comprehensive assessment in that area. Although Student did not request an independent educational evaluation in this area, District included information from Dr. Hoglin's assessment to corroborate the results and the adequacy of District's psychoeducational assessment in the area of auditory processing.

21. Dr. Hoglin held a doctorate degree in audiology, was board certified by the American Board of Audiology, was a fellow of the American Academy of Audiology, had several credentials and a license from the State of California, and was certificated by the American Speech-Language and Hearing Association. Dr. Hoglin administered pure air tone conduction tests as part of an audiologic evaluation, and used the following instruments as

part of her assessment: SCAN-3:A<sup>4</sup> (five subtests); Dichotic Digits Test; Gaps in Noise Test; and Frequency Pattern Tests. The findings indicated that Student had average scores in all areas except for verbal labeling of tonal patterns, and overall Dr. Hoglin found that Student did not have a central auditory processing disorder.

22. The school psychologist compiled his testing, the academic testing completed by the special education teacher, and the testing and report of the speech language pathologist who conducted the speech and language assessment into a written report entitled “4/22/15 Draft Psychoeducational Report.” He emailed the written report to Parents on April 22, 2015, the day before the IEP team meeting designated to review this assessment.

#### *The April 23, 2015 IEP Team Meeting*

23. On April 23, 2015, District held an IEP team meeting with all required participants. Qualified District IEP team members, including school psychologist Mr. Coad, special education teacher Ms. Collier, speech language pathologist Kari Pierce, and audiologist Dr. Hoglin, reviewed with Parents the April 2015 psychoeducational assessment including the 2015 speech and language assessment, and Dr. Hoglin’s auditory processing assessment. Consistent with those assessments, District personnel did not view Student as eligible for special education under any category of eligibility. The meeting was adjourned so the IEP team could obtain and consider additional information.

#### *Request for Independent Educational Evaluation*

24. Parents disagreed with District’s psychoeducational assessment and requested an independent educational evaluation in the area of psychoeducation. On November 23, 2015, District provided Parents prior written notice denying the request for an independent evaluation<sup>5</sup> and, on November 24, 2015, filed its request for a due process hearing to defend its assessment.

25. Student’s expert witness, Natasha Emmerson, Ph.D. was a licensed psychologist who reviewed District’s psychoeducational assessment and conducted a neuro-psychological evaluation of Student. Dr. Emmerson described District’s psychoeducational assessment as brief, disorganized, and incomplete. She identified areas of the report with which she had what she labeled “concerns,” but she never stated that the assessment did not conform to generally accepted practices within the field of educational psychology. With respect to the Tests of Achievement, Dr. Emmerson opined that District’s administration of the subtests selected was insufficient because cluster scores, composite scores made up of individual tests, were not reported for all areas that map onto the IDEA.

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<sup>4</sup> SCAN is not an acronym.

<sup>5</sup> This fact was alleged in District’s complaint. No testimony or document either corroborated or contradicted this allegation.

Dr. Emmerson also criticized the absence of an intelligence quotient score, which she described as being necessary for one method of determining the presence of a specific learning disability: a discrepancy between ability and achievement. She acknowledged that there were other methods of identifying a specific learning disability that do not require having an IQ score for a student. She also acknowledged that it was possible to use Student's scores on the Cognitive Assessment System and compare them to Student's academic achievement test scores to evaluate for the presence of a specific learning disability. She did not think the Cognitive Assessment System was a valid test, but she acknowledged that the National Association of School Psychologists had endorsed the test and that publishers of psychological test instruments including Western Psychological Services, Houghton Mifflin, and Harcourt supported the Cognitive Assessment System. Dr. Emmerson's testimony did not discredit District's assessment to the point of it not meeting the legal requirements for a district-conducted assessment. For these reasons, Dr. Emmerson's testimony that District's assessments were improper was less persuasive than Mr. Coad's and Ms. Collier's testimony, which collectively indicated that District's assessment met all necessary requirements.

## LEGAL CONCLUSIONS

### *Introduction: Legal Framework under the IDEA<sup>6</sup>*

1. This hearing was held under the Individuals with Disabilities Education Act, its regulations, and California statutes and regulations intended to implement it. (20 U.S.C. § 1400 et seq.; 34 C.F.R. § 300.1 (2006)<sup>7</sup> et seq.; Ed. Code, § 56000, et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are (1) to ensure that all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living, and (2) to ensure that the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

2. A FAPE means special education and related services that are available to an eligible child at no charge to the parent or guardian, meet state educational standards, and conform to the child's IEP. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; Cal. Code Regs., tit. 5, § 3001, subd. (p).) "Special education" is instruction specially designed to meet the unique needs of a child with a disability. (20 U.S.C. § 1401(29); 34 C.F.R. § 300.39; Ed. Code, § 56031.) "Related services" are transportation and other developmental, corrective, and supportive services that are required to assist the child in benefiting from

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<sup>6</sup> Unless otherwise indicated, the legal citations in the introduction are incorporated by reference into the analysis of each issue decided below.

<sup>7</sup> All references to the Code of Federal Regulations are to the 2006 version, unless otherwise noted.

special education. (20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, § 56363, subd. (a).) In general, an IEP is a written statement for each child with a disability that is developed under the IDEA's procedures with the participation of parents and school personnel that describes the child's needs, academic and functional goals related to those needs, and a statement of the special education, related services, and program modifications and accommodations that will be provided for the child to advance in attaining the goals, make progress in the general education curriculum, and participate in education with disabled and non-disabled peers. (20 U.S.C. §§ 1401(14), 1414(d); Ed. Code, § 56032.)

3. In *Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982) 458 U.S. 176, 201 [102 S.Ct. 3034] (“*Rowley*”), the Supreme Court held that “the ‘basic floor of opportunity’ provided by the [IDEA] consists of access to specialized instruction and related services which are individually designed to provide educational benefit to” a child with special needs. *Rowley* expressly rejected an interpretation of the IDEA that would require a school district to “maximize the potential” of each special needs child “commensurate with the opportunity provided” to typically developing peers. (*Id.* at p. 200.) Instead, *Rowley* interpreted the FAPE requirement of the IDEA as being met when a child receives access to an education that is reasonably calculated to “confer some educational benefit” upon the child. (*Id.* at pp. 200, 203-204.) The Ninth Circuit Court of Appeals (Ninth Circuit) has held that despite legislative changes to special education laws since *Rowley*, Congress has not changed the definition of a FAPE articulated by the Supreme Court in that case. (*J.L. v. Mercer Island School Dist.* (9th Cir. 2010) 592 F.3d 938, 950 [In enacting the IDEA 1997, Congress was presumed to be aware of the *Rowley* standard and could have expressly changed it if it desired to do so].) Although sometimes described in Ninth Circuit cases as “educational benefit,” “some educational benefit,” or “meaningful educational benefit,” all of these phrases mean the *Rowley* standard, which should be applied to determine whether an individual child was provided a FAPE. (*Id.* at p. 950, fn. 10.)

4. 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, evaluation, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, 56505.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).) At the hearing, the party filing the complaint has the burden of persuasion by a preponderance of the evidence. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528]; see 20 U.S.C. § 1415(i)(2)(C)(iii) [standard of review for IDEA administrative hearing decision is preponderance of the evidence].) In this case, District, as the complaining party, bears the burden of proof on the sole issue.

#### *Legal Adequacy of District's Assessment*

5. District contends that its psychoeducational assessment of Student in spring 2015 was conducted in accordance with all necessary statutory requirements and that Student is not entitled to an independent educational evaluation at public expense. Student contends

there were flaws in the instruments and methods District used in conducting its assessment, and that District has not met its burden of proof regarding the legal adequacy of its assessment.

6. A student who is eligible for special education and related services must be reevaluated at least once every three years, and when a parent requests a reassessment. (20 U.S.C. § 1414(a)(2)(B), (a)(2)(A)(i); 34 C.F.R. § 300.303(a); Ed. Code, § 56381, subd. (a).) The reassessment shall be conducted under the procedures and assessment requirements set forth regarding initial assessments, as well as the requirements for reassessment. (Ed. Code, § 5638, subd. (a)(1), (b).)

7. When a student is referred for assessment, the school district must provide the student's parent with a written proposed assessment plan within 15 days of the referral (with limited exceptions not applicable in this case). (Ed. Code, § 56321, subd. (a).) The parent shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision; the assessment may begin immediately upon receipt of the parent's consent. (Ed. Code, § 56321, subd. (c)(4).)

8. Once a student has been referred for a reassessment, a determination of eligibility and an IEP team meeting shall occur within 60 days of receiving parental consent for the assessment. (See 20 U.S.C. § 1414(a)(1)(C); Ed. Code, § 56302.1, subd. (a).)

9. The IDEA and California state law require that a school district assess a student in all areas of his or her suspected disability. (20 U.S.C. § 1414(b)(3); Ed. Code, § 56320, subd. (f).) A school district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent. (20 U.S.C. § 1414(b)(2)(A); 34 C.F.R. § 300.304(b)(1); see also Ed. Code, § 56320, subd. (b)(1).) The assessment must be sufficiently comprehensive to identify all of the student's special education and related services needs, regardless of whether they are commonly linked to the student's disability category. (34 C.F.R. § 300.304(c)(6).)

10. Assessments and other evaluation materials must be administered by trained and knowledgeable personnel in conformance with the instructions provided by the producer of such tests. (20 U.S.C. § 1414(b)(3)(iv) & (v), (3); Ed. Code, § 56320, subd. (b)(3).) Assessments must be conducted by individuals who are both "knowledgeable of the student's disability" and "competent to perform the assessment, as determined by the local educational agency." (Ed. Code, §§ 56320, subd. (g), and 56322; see 20 U.S.C. § 1414(b)(3)(A)(iv).) A psychological assessment must be performed by a credentialed school psychologist. (Ed. Code, § 56324, subd. (a).) Tests and assessment materials must be selected and administered so as not to be racially, culturally or sexually discriminatory; must be provided and administered in the student's primary language or other mode of communication unless this is clearly not feasible; and must be used for the purposes for which the assessment or measures are valid and reliable. (20 U.S.C. § 1414(b)(3)(A)(i), (ii) & (iii); Ed. Code, § 56320, subs. (a), (b)(1) & (2).) The school district must use technically sound instruments

that may assess the relative contribution of cognitive and behavioral factors, as well as physical or developmental factors. (20 U.S.C. § 1414(b)(2)(C).) No single measure or assessment shall be used as the sole criterion for determining whether a student is a child with a disability or for determining an appropriate educational program for the student. (20 U.S.C. § 1414(b)(2)(B); Ed. Code, § 56320, subd. (e).)

11. The personnel who assess a student must prepare a written report that includes: (1) whether the student may need special education and related services; (2) the basis for making that determination; (3) the relevant behavior noted during observation of the student in an appropriate setting; (4) the relationship of that behavior to the student's academic and social functioning; (5) the educationally relevant health, development, and medical findings, if any; (6) for pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services; and (7) if appropriate, a determination of the effects of environmental, cultural, or economic disadvantage. (Ed. Code, § 56327.) The report must be provided to the parent after the assessment. (20 U.S.C. § 1414(b)(4)(B); Ed. Code, § 56329, subd. (a)(3).)

12. The procedural safeguards of the IDEA provide that under certain conditions, a parent is entitled to obtain an independent evaluation of a child at public expense. (20 U.S.C. § 1415(b)(1).) An independent evaluation is an evaluation conducted by a qualified examiner not employed by the school district. (34 C.F.R. § 300.502(a)(3)(i).) A parent has the right to request an independent evaluation at public expense if the parent disagrees with an evaluation obtained by the school district. (34 C.F.R. § 300.502(b)(1); Ed. Code, § 56329, subd. (b).) When a parent requests an independent evaluation at public expense, the school district must, "without unnecessary delay," either initiate a due process hearing to show that its evaluation is appropriate, or provide the independent evaluation at public expense, unless the school demonstrates at a due process hearing that an independent evaluation already obtained by the parent does not meet its criteria. (34 C.F.R. § 300.502(b)(4); Ed. Code, § 56329, subd. (c).)

13. A school district must provide parents with prior written notice when it refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(3).)

14. There was no evidence regarding the date on which Student requested an independent evaluation or the date on which District responded to that request. Student did not assert as a defense to District's case that District's refusal to fund an independent evaluation was untimely or that District unreasonably delayed its filing for due process. While District bears the burden of production and persuasion in this case, the parties' conduct in the litigation indicated there is no genuine dispute as to the timeliness either of District's response to Student's request for an independent evaluation or its request for a due process hearing. District did not unnecessarily delay in filing to defend its assessment.

15. District's psychoeducational assessment met all legal requirements for assessments. District timely responded to Parents' request for assessment and presented

Parents with an assessment plan within 15 days after Parents' request. The special education teacher and the school psychologist were qualified to conduct their respective assessment components. For example, Mr. Coad had been a school psychologist for 17 years and had substantial experience conducting psychoeducational assessments. Ms. Collier had been a special education teacher for 10 years and had conducted over 100 academic assessments. The assessment instruments were appropriate to administer to Student, they were selected so as not to be discriminatory, and they were administered in accordance with any test instructions. The assessors used assessment instruments that were valid and reliable. The assessors used a variety of assessment measures, both standardized and non-standardized, and reviewed existing evaluation data. For example, the special education teacher tested Student using nine subtests of the Tests of Achievement and observed Student while he participated in the tests. The school psychologist tested Student using the Cognitive Assessment System, five subtests of the Tests of Cognitive Abilities to supplement information from the Cognitive Assessment System, and three subtests of the Tests of Achievement to supplement information from the special education teacher's academic testing. The school psychologist's testing included instruments that investigated Student's attention and auditory processing. He observed Student during testing and in class, and interviewed Student. Parental input was considered through a written interview form and a standardized behavior assessment rating scale that both Mother and Father participated in completing. Student was assessed in all areas of suspected disability within the psychoeducational assessment realm. The school psychologist prepared and presented a report on April 23, 2015, entitled Psychoeducational Report, which explained the assessment results, described Student's strengths and weaknesses, and discussed Student's need for special education and related services, and District established the accuracy of the information presented. District provided Parents with a copy of the report on April 22, 2015, prior to the April 23, 2015 IEP team meeting, which was held within 60 days of District's receipt of Father's consent to the assessment plan. Qualified District staff reviewed the results of the Psychoeducational Report with Student's parents during the April 23, 2015 IEP team meeting.

16. The question with respect to an assessment is whether it meets IDEA standards. If it does, an assessment is not inappropriate because more assessments could be administered, or because more categorizations of composite scores could be derived from the instruments already administered. In this case, the evidence showed that District's April 23, 2015 psychoeducational assessment of Student was conducted in accordance with all necessary statutory requirements. District satisfied its burden of proof on this issue and Student therefore is not entitled to an independent evaluation at public expense.

#### ORDER

District's April 23, 2015 psychoeducational assessment of Student was conducted in accordance with all necessary statutory requirements and Student therefore is not entitled to an independent evaluation at public expense.

