

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

NORWALK-LA MIRADA UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2016060536

DECISION

On June 6, 2016, Norwalk-La Mirada Unified School District filed a request for a due process hearing with the Office of Administrative Hearings, naming Student. OAH granted a continuance for good cause on June 20, 2016.

Administrative Law Judge Caroline A. Zuk heard this matter in Norwalk, California, on August 24, 2016.

Robert Jacobsen, Attorney at Law, represented District. Beth Nishida, Executive Director, Special Education, was present for the entire hearing. Mr. Jacobsen's paralegal, Julia Lee, was present for part of the hearing.

Father, on behalf of Student, did not appear for the hearing. On August 24, 2016, at approximately 9:15 a.m., District left a voicemail message for Father, reminding him of the hearing. The ALJ waited 30 minutes for Father to respond. Father did not contact District or OAH or appear at the hearing. The ALJ commenced the hearing at 10:00 a.m. without Father.

District presented an oral closing argument at hearing, the record was closed on August 24, 2016, and the matter was submitted for decision.

ISSUE

May District assess Student pursuant to District's January 27, 2016 triennial assessment plan without Parent's written consent?

SUMMARY OF DECISION

District met its burden of proof on the issue of its right and legal obligation to conduct Student's triennial assessment in the areas of academic achievement, health, intellectual development, speech and language, perceptual processing, social-emotional development, and adaptive behavior. District's assessment plan was appropriate and its assessors were qualified. The assessments were necessary to obtain information regarding Student's present levels of performance and areas of unique need to develop a new individualized education program to support him during his first year of high school. District may assess Student pursuant to its proposed assessment plan over Father's objection.

FACTUAL FINDINGS

Background and Jurisdiction

1. Student is 13-years-old, residing within District's geographical boundaries, who started ninth grade at Norwalk High School on August 17, 2016, the first day of District's 2016-2017 regular school year. At the time of his enrollment, Student was eligible for special education, because of a speech and language impairment.
2. District conducted Student's last triennial assessment on April 11, 2013, when he was in fifth grade. The individualized education program team set Student's next triennial reassessment due date for April 11, 2016, during eighth grade.
3. Student's mother passed away during the 2013-2014 school year. Student subsequently engaged in violent outbursts at school, such as wiping materials off of his desk and flipping the desk over. On November 17, 2014, Student dug a pen into his arm at school, stating that was going to kill himself. District attempted three times to schedule an IEP team meeting with Father to discuss Student's social-emotional functioning, behavior, and academic progress. Father declined to participate in an IEP team meeting.
4. On December 16, 2014, District convened an IEP team meeting without Father, and discussed the option of conducting Student's triennial assessment during the 2014-2015 school year. District decided not to reset the triennial reassessment date. District offered Student a new goal in the area of social-emotional functioning and increased his specialized academic instruction services. District also offered to increase its monitoring of Student's behavior intervention plan upon his regular attendance at Corvallis Middle School. District sent a copy of the IEP to Father, but he did not sign it.
5. On April 1, 2015, District conducted Student's annual IEP team meeting. Father declined to attend the meeting despite District's repeated attempts to secure his participation. Student's behavior had improved as he did not have violent outbursts. However, he had excessive absences, did not turn in assignments, and was failing all of his academic classes. Despite Student's lack of progress, and because of Father's absence, the

IEP team decided to wait until April 2016 to conduct the triennial assessment, hoping to engage Father's participation in the IEP process.

January 27, 2016 Triennial Assessment Plan

6. On January 27, 2016, District's licensed and credentialed speech and language pathologist, Victoria Cuizon, and District's credentialed school psychologist Darlene Moreno, developed a triennial assessment plan for Student. Ms. Cuizon and Dr. Moreno were familiar with Student's unique needs. They had attended Student's December 16, 2014, and April 1, 2015 IEP team meetings, and had provided direct services to him. Ms. Cuizon also was Student's case carrier.

7. District's triennial assessment plan sought consent for assessments in the areas of academic achievement by a special education teacher; language/speech communication development by a speech and language pathologist; and intellectual development, perceptual processing, social-emotional development, adaptive behavior, and health by a school psychologist. The health assessment was limited to a record review by a school psychologist as Student did not have any specific health concerns when District developed the plan.

8. The assessment plan provided Father with notice that the purpose of the assessments was to determine Student's continued eligibility for special education and present levels of academic performance and functional achievement. The plan also provided notice that Student would be assessed in all areas of suspected disability, and that tests would include, but not be limited to, classroom observations, rating scales, one-on-one testing or some other types of combination of tests. The plan provided notice that the results of the assessment would be kept confidential; that Father would be invited to an IEP team meeting to discuss the results; and that no special education services would be provided without Father's written consent. The plan also invited Father to share assessment information for consideration by the IEP team. District attached a detailed notice of Parents' Rights and Procedural Safeguards to the assessment plan, which provided additional information regarding assessments and the IEP process.

Communications with Father to Obtain Written Consent

9. District diligently attempted to obtain Father's input and written consent to the assessment plan.

10. On January 27, 2016, Ms. Cuizon left a voicemail for Father, stating that District was sending the assessment plan home via Student's backpack and certified mail. On February 5, 2016, Ms. Cuizon left a second voicemail for Father, reminding him about the assessment plan. On February 9, 2016, Ms. Cuizon sent another copy of the assessment plan to Father via Student's backpack and certified mail, followed up by a voicemail message. On February 9, 2016, Ms. Cuizon spoke with Father about the assessment plan. On February 16, 2016, District received the signed assessment plan. Father checked the box next to the following statement: "I do not consent to the proposed assessment described

above.” Ms. Cuizon spoke with Father on February 16, 2016, confirming that he did not consent to the assessment. Between February 23 and June 3, 2016, District attempted to communicate with Father regarding Student’s poor attendance, and the need for an IEP team meeting to discuss Student’s transition from middle to high school. Father declined to be involved in the IEP process, informing staff that he was upset with the administration.

Necessity and Appropriateness of Assessments

11. Ms. Cuizon and Dr. Moreno testified at hearing, credibly explaining several persuasive reasons why District needed to reassess Student pursuant to the January 27, 2016 assessment plan.

12. Ms. Cuizon has assessed and provided direct therapy to students with speech and language disorders for 13 years, primarily in the public school setting. She holds bachelor’s and master’s degrees in communicative disorders and sciences from California State University, Northridge. She also holds a license from the California Speech-Language Pathology and Audiology Board, a professional clear clinical or rehabilitative services credential from the California Commission on Teacher Credentialing, and a certificate of clinical competence from the American Speech-Language Hearing Association.

13. Ms. Cuizon has been Student’s case carrier for the past three years, and provides him with 30 minutes per week of direct language therapy in a small group setting. Ms. Cuizon has personal knowledge regarding Student’s areas of suspected disability based on her therapy sessions with him, attendance at IEP team meetings, and consultation with staff at Corvallis Middle School.

14. Student previously qualified for special education, because of receptive and expressive language disorders, adversely affecting his ability to access the general education curriculum. District, through Ms. Cuizon, recommended assessment in the area of speech and language, because Student had needs in the areas of receptive language, expressive language, pragmatic language, and social skills. Student had difficulty correctly answering problem-solving questions relating to a story or situation, using complete sentences with correct syntax and morphology. Student had resorted to physical, violent outbursts at school to resolve feelings of anger and frustration instead of using appropriate verbal communication. Student’s attendance had been poor, negatively affecting his progress in language processing skills, and limiting Ms. Cuizon’s ability to determine his present levels of performance. Student’s last communication assessment was over 3 years old. Therefore, Student needed to be reassessed in the area of speech and language.

15. Dr. Moreno is a veteran educator with 21 years of experience, including eight years as a bilingual general education teacher, and 13 years as a credentialed school psychologist with certification as a behavior intervention case manager. She recently completed a clinical psychology program at Pepperdine University, earning a doctor of psychology. She has extensive experience conducting psychoeducational assessments and providing individual therapeutic intervention to students with significant social-emotional

challenges in public school and clinical settings. Dr. Moreno provided direct counseling services to Student during the last two months of sixth grade, and consultation services to staff, and direct counseling as needed during seventh and eighth grade. Dr. Moreno has personal knowledge regarding Student's areas of suspected disability based on her therapeutic interactions with Student, her consultations with Corvallis staff, her review of Student's school records, and her participation in IEP team meetings.

16. Dr. Moreno agreed with Ms. Cuizon that Student needed a speech and language assessment, because his last triennial speech and language assessment was outdated, and Student historically needed special education services, because of language impairments.

17. Dr. Moreno credibly opined that Student also needed to be assessed in the areas of academic achievement, intellectual development, perceptual processing, social skills, emotional development, adaptive behavior, and health. Student needed to be assessed in the areas of academic achievement, intellectual development, and perceptual skills to determine if Student had a specific learning disability, contributing to poor attendance, limited participation in academic classes and failing grades, dating back to sixth grade. Student needed to be assessed in the areas of social skills, emotional development, and adaptive behavior to analyze his feelings of sadness, frustration, and anger, and coping skills. Student needed a health assessment, limited to a review of health records by Dr. Moreno, to consider whether there were any health factors affecting Student's education.

18. Student's last comprehensive assessment was conducted in April 2013. District needed to conduct Student's triennial reassessment to determine if he was still eligible for special education. If District determined that Student remained eligible for special education, then District needed to identify all areas of unique need, update his present levels of performance, review and revise goals and services, and develop a new annual/triennial IEP based on current assessment data. Student's triennial IEP should have been completed by April 11, 2016, to assist with his transition from middle school to high school.

19. Roshelle Chavez, assistant director of special education, supervised special education staff and programs, and knew the District professionals who would conduct Student's triennial reassessment at Norwalk High School. Her testimony established that speech language pathologist Debra Dusatko, school psychologist Andrew Tesoro, and special education teacher Menker Feleke were well qualified to conduct their respective assessments pursuant to the assessment plan.

20. Ms. Dusatko holds a bachelor's degree in speech communications from California State University, Long Beach, and a master's degree in communicative disorders from California State University, Fullerton. She first obtained her clinical or rehabilitative services credential in 1987, and has 28 years of experience in the District as a speech and language pathologist. Ms. Dusatko possesses the education and expertise to assess Student's ability to understand and use language and speak clearly and appropriately.

21. Mr. Feleke holds a bachelor's degree in history from the University of Minnesota, and master's degrees in theological studies and special education from Andrews University and Saint Xavier University, respectively. He has earned an education specialist instruction credential, authorizing him to assess and teach students with mild to moderate disabilities. Mr. Feleke has four years of experience as a general education teacher, and 13 years of experience as a special education teacher. Mr. Feleke possess the education and expertise to test Student's reading, spelling, arithmetic, oral and written language skills, and general knowledge. Dr. Tesoro, a credentialed school psychologist, holds a bachelor's in psychology and political science from the Univeristy of California, Berkley, and master's and doctorate degrees in school psychology from the University of Arizona. Dr. Tesoro's expertise is evident by his accomplishments in the field of school psychology, including research experience, professional presentations and publications, and leadership roles in professional organizations. Dr. Tesoro possesses the education and expertise to assess Student.

22. The assessments proposed by District were designed to provide District with updated information on Student's present levels of performance, his unique needs, and strategies on how to support Student's transition from middle school to high school. District needed to determine whether Student has a specific learning disability in addition to a language impairment. Student needed to be assessed in all of the areas identified in the assessment plan, otherwise the IEP team would not be able to develop an appropriate triennial IEP.

LEGAL CONCLUSIONS

Introduction: Legal Framework Under the IDEA¹

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) et seq.²; 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 free appropriate public education 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, which meet state educational standards,

¹ Unless otherwise indicated, the legal citations in the introduction are incorporated by reference into the analysis of each issue decided below.

² All references to the Code of Federal Regulations are to the 2006 version.

and conform to the child's IEP. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17.) "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 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, 73 L.Ed.2d 690] (*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 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 (*Mercer Island*) [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. 951, fn. 10.)

4. There are two parts to the legal analysis of a school district's compliance with the IDEA. First, the tribunal must determine whether the district has complied with the procedures set forth in the IDEA. (*Rowley, supra*, 458 U.S. at pp. 206-207.) Second, the tribunal must decide whether the IEP developed through those procedures was designed to meet the child's unique needs, and was reasonably calculated to enable the child to receive educational benefit. (*Ibid.*) An IEP is not judged in hindsight; its reasonableness is evaluated in light of the information available at the time it was implemented. (*J.G. v. Douglas County School Dist.* (9th Cir. 2008) 552 F.3d 786, 801; *Adams v. State of Oregon* (9th Cir. 1999) 195 F.2d 1141, 1149. In determining the validity of an IEP, a tribunal must focus on the placement offered by the school district, not on the alternative preferred by the parents. (*Gregory K. v. Longview School Dist.* (9th Cir. 1987) 811 F.2d 1307, 1314.)

Burden of Proof

5. In an administrative proceeding, the burden of proof is ordinarily on the party requesting the hearing. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387].) District requested the hearing and, therefore, District has the burden of proof related to the issue for hearing.

Issue: District's Right to Assess Without Parental Consent

6. District contends that it had the right and obligation to assess Student when it presented its proposed assessment plan, dated January 27, 2016, to Father, but it could not do so because Father refused to provide written consent.

Assessments

7. The IDEA provides for periodic reevaluations to be conducted not more frequently than once a year unless the parents and district agree otherwise, but at least once every three years unless the parent and district agree that a reevaluation is not necessary. (20 U.S.C. § 1414(a)(2)(B); 34 C.F.R. § 300.303(b); Ed. Code, § 56381, subd. (a)(2).) A reassessment must be conducted if the local educational agency “determines that the educational or related services needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment.” (20 U.S.C. § 1414(a)(2)(A)(i); 34 C.F.R. § 300.303(a)(1); Ed. Code, § 56381, subd. (a)(1).)

8. Reassessments require parental consent. (20 U.S.C. § 1414(c)(3); Ed. Code, § 56381, subd. (f)(1).) To start the process of obtaining parental consent for a reassessment, the school district must provide proper notice to the student and his parents. (20 U.S.C. §§ 1414(b)(1), 1415(b)(3) & (c)(1); Ed. Code, §§ 56321, subd. (a), 56381, subd. (a).) The notice consists of the proposed assessment plan and a copy of parental procedural rights under the IDEA and companion state law. (20 U.S.C. §§ 1414(b)(1), 1415(c)(1); Ed. Code, § 56321, subd. (a).) The assessment plan must: appear in a language easily understood by the public and the native language of the student; explain the assessments that the district proposes to conduct; and provide that the district will not implement an IEP without the consent of the parent. (Ed. Code, § 56321, subd. (b)(1)-(4).) The district must give the parents and/or pupil 15 days to review, sign and return the proposed assessment plan. (Ed. Code, § 56321, subd. (a).)

9. If parents do not consent to a reassessment plan, a school district may conduct the reassessment by showing at a due process hearing that it needs to reassess the student and it is lawfully entitled to do so. (20 U.S.C. § 1414(c)(3); 34 C.F.R. § 300.300(c)(ii); Ed. Code, §§ 56381, subd. (f)(3), 56501, subd. (a)(3).)

10. Parents who want their children to receive special education services must allow reassessment by the district, with assessors of its choice, and cannot force the district

to rely solely on an independent evaluation. (*Johnson v. Duneland Sch. Corp.* (7th Cir.1996) 92 F.3d 554, 558; *Andress v. Cleveland Indep. Sch. Dist.* (5th Cir.1995) 64 F.3d 176, 178-79 (*Andress*); *Gregory K. v. Longview Sch. Dist.* (9th Cir. 1987) 811 F.2d 1307, 1315 (*Gregory*)). “Every court to consider the [Individuals with Disabilities Act’s] reevaluation requirements has concluded that “if a student's parents want him to receive special education under IDEA, they must allow the school itself to reevaluate the student . . .” (*M.T.V. v. DeKalb County School Dist.* (11th Cir. 2006) 446 F.3d 1153, 1160, quoting *Andress* at p. 178-179.) The Ninth Circuit has held that “if the parents want [their child] to receive special education services under the [IDEA], they are obliged to permit [re-assessment] testing.” (*Gregory* at p. 1315.)

11. The assessment must be conducted in a way that: 1) uses a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent; 2) does not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability; and 3) uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. The assessments used must be: 1) selected and administered so as not to be discriminatory on a racial or cultural basis; 2) provided in a language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally; 3) used for purposes for which the assessments are valid and reliable; 4) administered by trained and knowledgeable personnel; and 5) administered in accordance with any instructions provided by the producer of such assessments. (20 U.S.C. §§ 1414(b) & (c)(5); Ed. Code, §§ 56320, subs. (a) & (b), 56381, subd. (h).) The determination of what tests are required is made based on information known at the time. (See *Vasherresse v. Laguna Salada Union School Dist.* (N.D. Cal. 2001) 211 F.Supp.2d 1150, 1157-1158 [assessment adequate despite not including speech/language testing where concern prompting assessment was deficit in reading skills].) No single measure, such as a single intelligence quotient, shall be used to determine eligibility or services. (Ed. Code, § 56320, subs. (c) & (e).)

12. Assessments shall be conducted by individuals who are “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)(B)(ii).) Psychological and health assessments shall be performed in accordance with the procedures set forth in Education Code section 56320, by assessors who are trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed. (Ed. Code, § 56324.) Any psychological assessment of a pupil shall be performed by a credentialed school psychologist. (Ed. Code, § 56324, subd. (a)). Any health assessment of a pupil shall be performed by a credentialed school nurse or physician. (Ed. Code, § 56324, subd. (b).)

Analysis

13. District met its burden of persuasion through credible testimony from Ms. Cuizon and Dr. Moreno that reassessment of Student was necessary and that District complied with all statutory requirements regarding its assessment plan.

14. Student's triennial reassessment was due on April 11, 2016. District credibly proved that a reassessment was necessary for several reasons. District needed to determine if Student remained eligible for special education under the category of speech or language impairment, and if Student was eligible under the category of specific learning disability. Student's last triennial assessment was over three years old; he obtained failing grades during middle school; and he struggled in the areas of communication, social skills, emotional regulation, and behavior. District needed current, specific information on Student's present levels of performance to determine his eligibility for special education and, if eligible, whether he needs new goals, additional or different related services, supports, and accommodations in the new high school setting.

15. District's assessment plan complied with the procedural requirement of the IDEA. It identified several types of measures to assess Student, including one-to-one tests, observations, interviews, and review of records. A credentialed special education teacher would conduct the academic assessment. A credentialed speech and language pathologist would conduct the communication assessment. A credentialed school psychologist would conduct the assessment of Student's intellectual and social-emotional development, perceptual processing, and adaptive behavior. A credentialed school psychologist would conduct a health assessment, limited to a record review within a school psychologist's area of expertise, to consider whether any health factors could be affecting Student's performance at school.

16. In January and February 2016, Ms. Cuizon diligently attempted to obtain Father's written consent to the assessment plan by sending several copies of the plan to Student's home via certified mail and Student's backpack. Ms. Cuizon followed up with several phone calls, and confirmed that Father did not want to consent to the assessment. The assessment plan provided notice on the types of assessments to be completed, and who would be conducting each type of assessment. District made reasonable efforts to obtain parental consent to the comprehensive assessment plan and provided at least 15 days to review and sign the plan. Parent received the assessment plan but did not provide consent.

17. In summary, District established that the January 27, 2016 triennial assessment plan complied with all applicable statutory requirements regarding form, function and notice. District also established that assessments are warranted and its assessors are competent to perform them. Therefore, District may assess Student over parental objection.

ORDER

1. District may assess Student pursuant to the January 27, 2016 assessment plan without parental consent.
2. District shall, within 10 business days of the date of this decision, deliver to Father by certified mail at his last known address, notice of the dates, times, and locations of the assessments identified in the January 27, 2016 assessment plan. Father shall present Student for the assessments on the dates, times, and at the locations set by District. If Student is unable to attend on those days, Father will promptly communicate this to District and District will propose new dates and times no more than 30 days from the dates that District originally proposed.
3. Father will timely complete and return any paperwork reasonably requested by District as part of the assessments.
4. If Father does not present Student on the days and times as specified above or do not complete any paperwork as specified above, District will not be obligated to provide special education and related services to Student until such time as Father complies with this Order.

PREVAILING PARTY

Education Code section 56507, subdivision (d), requires that the hearing decision indicate the extent to which each party has prevailed on each issue heard and decided. District prevailed on the only issue presented for decision.

RIGHT TO APPEAL THIS DECISION

The parties in this case have the right to appeal this Decision by bringing a civil action in a court of competent jurisdiction. (20 U.S.C. § 1415(i)(2)(A); 34 C.F.R. § 300.516(a); Ed. Code, § 56505, subd. (k).) An appeal or civil action must be brought within 90 days of the receipt of this Decision. (20 U.S.C. § 1415(i)(2)(B); 34 C.F.R. § 300.516(b); Ed. Code, § 56505, subd. (k).)

DATE: September 19, 2016

/s/

CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings