

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CASTRO VALLEY UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2017021178

DECISION

Castro Valley Unified School District filed an amended due process hearing request with the Office of Administrative Hearings on February 28, 2017, naming Parents on behalf of Student.

Administrative Law Judge Rebecca Freie heard this matter in Oakland, California on March 29, and 30, 2017.

Melanie Larzul, Attorney at Law, represented Castro Valley. Suzy Williams, Director of Special Education for Castro Valley, was present throughout the hearing as its representative.

James Sibley, Attorney at Law, represented Student. He was assisted by Amanda O'Neal, Attorney at Law. Parents and Student did not attend the hearing.

The matter was continued, at the parties' request, to April 19, 2017, to allow written closing arguments. The matter was submitted for decision on April 19, 2017, upon timely receipt of written closing arguments.

ISSUES

1. Did Castro Valley's October 24, 2016 psychological assessment, meet all legal requirements such that Parents are not entitled to an independent educational evaluation at public expense?
2. Did Castro Valley's October 26, 2016 academic assessment, meet all legal requirements such that Parents are not entitled to an independent educational evaluation at public expense?
3. Did Castro Valley's October 21, 2016 speech and language assessment, meet all legal requirements such that parents are not entitled to an independent educational evaluation at public expense?

SUMMARY OF DECISION

Parents asked Castro Valley to fund independent assessments after Castro Valley conducted a psychological assessment, an academic assessment, and a speech and language assessment of Student. Castro Valley filed this action to obtain a determination that each of these assessments met all legal requirements, and therefore it need not fund independent assessments in these areas.

The psychological assessment did not meet all legal requirements because the assessment disregarded areas of concern in the area of social/emotional functioning simply because Student performed well academically. Further, the assessment report contained no analysis of the areas in which Student might qualify for special education: specific learning disability, other health impairment, and emotional disturbance. Student is entitled to an independent educational evaluation funded by Castro Valley in the area of psychoeducation.

The academic achievement assessment did meet all legal requirements and therefore Student is not entitled to an independent educational evaluation in this area.

However, the speech and language assessment did not meet all legal requirements. The speech and language pathologist conducted insufficient testing in the area of social skills deficits, in light of Student's known history of difficult peer relationships. Accordingly, Student is entitled to an independent speech and language evaluation funded by Castro Valley. Finally, the assessment did not consider any effect Tourette syndrome may have on Student's educational needs and if the independent speech and language evaluation is not the proper assessment to consider this area, a third independent educational evaluation is ordered by a qualified assessor.

FACTUAL FINDINGS

JURISDICTION

1. Student resides with Parents within the boundaries of Castro Valley, and has done so at all times in this matter. He is ten years of age and has attended the same elementary school in Castro Valley since kindergarten. He is currently in the fourth grade and is placed in a combined fourth/fifth grade general education classroom.

2. Student has been medically diagnosed with attention deficit hyperactivity disorder and was taking medication for that at the time of the assessments. He has had a 504 plan since second grade.¹ The 504 plan addresses social skills deficits and attention issues.

¹ A Section 504 plan is an educational program created pursuant to Section 504 of the Rehabilitation Act of 1973. (29 U.S.C. § 794; see 34 C.F.R. § 104.1 et. seq. (2000).) Generally, the law requires a school district to provide program modifications and accommodations to children who have physical or mental impairments that substantially limit a major life activity, such as learning. OAH does not have jurisdiction over claims made under this Section.

3. On August 30, 2016, following a request from Parents on August 22, 2016, Castro Valley developed an assessment plan so that it could assess Student to determine whether he met eligibility requirements for special education. Parents consented to the assessment plan on the same date. The assessments would cover the areas of academic achievement, intellectual development, language/speech communication development, motor development, social/emotional development, and include hearing and vision screenings.

4. Student was timely assessed and on October 27, 2016, an individualized education program team meeting was held to review three assessment reports: 1) a psychological assessment, 2) an academic assessment, and 3) a speech and language assessment. The meeting was not completed and a second meeting was held on November 10, 2016. Parents believed Student met the recognized eligibility criteria for special education in one or more areas. Castro Valley team members disagreed and found him ineligible for special education.

5. Parents disagreed with Castro Valley's assessments, and on January 20, 2017, asked that it fund independent educational evaluations. On February 17, 2017, Ms. Williams sent prior written notice to Parents explaining why Castro Valley was refusing to fund independent evaluations, and advising Parents that it was required to file a request for due process with OAH to defend its assessments. Castro Valley's original request was filed with OAH on February 27, 2017.

THE ASSESSMENT PROCESS

6. A resource specialist teacher at Student's school, Lindsay Martin, was in charge of coordinating the assessment. Ms. Martin discussed an assessment plan with Parents when they signed consent to the plan on August 30, 2016. All of the areas for assessment discussed above were on the initial assessment plan presented to Parents on that date with the exception of speech and language. Ms. Martin added that

category at the request of Parents who informed her that Student had been diagnosed with Tourette syndrome.²

7. Ms. Martin arranged for Nidhi Singh, a school psychologist assigned to Student's elementary school, to conduct the assessment in the areas of intellectual development, social/emotional development, and motor development. Ms. Martin was responsible for conducting the academic assessment. She also arranged for the speech and language pathologist assigned to the elementary school, Grace Tam, to conduct the speech and language assessment. These assessments were considered by Castro Valley to be multidisciplinary and each was to be read in conjunction with the others.

8. Each assessor required several sessions of approximately 45 minutes each to assess Student. All testing was conducted in English, Student's native language. Each assessor utilized one or more testing instruments with multiple subtests, most of which have a starting point based on the test subject's age and/or grade level. Testing then progresses to increasingly difficult questions that anticipate a higher level of knowledge or skill than the subject's age or grade level. Student is very bright and verbal, and progressed on most subtests to a much higher level than his grade and age would indicate. Therefore testing took much longer than what might be expected from a child with less intelligence and lower verbal skills.

9. Each assessor spoke to Student's teacher as part of the assessment process. Parents completed a health and development form, and Ms. Singh reviewed this form when it was returned, and included information from it in her psychological assessment. Parents also provided a medical report from Kaiser dated May 20, 2016, which reported that Student had been examined to determine if he had Tourette

² The testimony and evidence at hearing did not establish that Student had, in fact, been diagnosed with Tourette syndrome.

syndrome, anxiety, and attention deficit hyperactivity disorder. There was no evidence that Ms. Martin or Ms. Tam ever saw the health and development form completed by Parents, or the medical report from Kaiser.

10. During the assessment process Ms. Martin and Ms. Singh communicated with Parents via email. Parents wanted to be informed of every testing session an assessor was going to have with Student in advance, so that Parents could “prepare” him due to his anxiety. They also insisted that Student meet each assessor in the school office and then be walked to the location where the testing was to occur.

11. There were no formal meetings of the assessment team during the assessment process, or any formal communication process. Ms. Singh and Ms. Martin were also assigned to another elementary school, so they were only at Student’s school part of the week. Ms. Tam is a part time employee and similarly is only at the school part of the week. The assessors obtained information about Student from each other only informally, if at all.

12. Ms. Singh and Ms. Martin reviewed Student’s cumulative file, but neither of them passed on the information they gleaned to Ms. Tam. When they testified, none of the assessors could specifically recall any information from her own assessment of Student that might have been communicated to another assessor. Ms. Singh reviewed Ms. Martin’s academic assessment draft when she prepared her own report. However, she did not review Ms. Tam’s speech and language assessment until the IEP team meeting on October 27, 2016, and Ms. Tam and Ms. Martin did not review anyone else’s assessment until that IEP team meeting. A few days before the IEP team meeting Ms. Martin sent draft copies of each report to Parents.

PSYCHOLOGICAL ASSESSMENT

13. Nidhi Singh, a school psychologist, conducted a psychological assessment of Student and the results were summarized in a written report. Ms. Singh has a

bachelor's degree and a master's degree in school psychology. She has a pupil personnel services credential, and has been a school psychologist for 28 years in Castro Valley. She has assessed approximately 22 to 45 students each year.

14. Ms. Singh's written report contained information about Student's intellectual development, motor development, and social/emotional development, based on formal testing, a records review, teacher interview, and information obtained from Mother via the health and development report form. It was reported that Student takes medication and is in therapy. Mother also provided Ms. Singh with a physician's report from a Kaiser visit that indicated reasons for the visit were Tourette syndrome, anxiety, and attention deficit hyperactivity disorder. In her report Ms. Singh stated that Student had been diagnosed with all these conditions. However, when she testified, Ms. Singh stated that these conditions were not diagnosed at that visit, and at the bottom of the form, the diagnoses were only attention deficit hyperactivity disorder and Student's multiple vision issues, for which he wears glasses.³ Kaiser conducted a comprehensive eye examination in May 2016, and Castro Valley conducted a hearing screening on September 1, 2016.

15. Ms. Singh reviewed Student's cumulative file, including his report cards. His grades on these standards-based report cards showed that Student was proficient or advanced in meeting all standards that were measured each trimester, from kindergarten through third grade. However, teachers reported excessive talking, difficulty staying on task, and difficulty working with others. Teachers also reported that Student had some trouble with peer relationships, although these reports had diminished by the end of each school year.

³ There was no evidence that Student's glasses do not adequately correct his vision deficits.

16. Ms. Singh also reviewed Student's 504 plans dated January 22, 2015, and January 20, 2016. In 2015 the reason given for referral to the 504 team was anxiety, frustration and interaction with peers. It was noted that Student had been medically diagnosed with attention deficit hyperactivity disorder. Student was noted to have difficulty completing assignments, maintaining focus, and staying organized. Some of the accommodations listed indicated that Student also had difficulties with peer relationships and the 504 plan included accommodations to connect Student with an adult supervisor during noon recess, possibly limiting his time during recess, monitoring him when at lunch tables, and monitoring him during group work in the classroom. Accommodations listed in the 504 plan for 2016 included a provision for Student, if he wished, to eat his lunch in the office, and there was evidence that he did this for much of the remainder of the 2015-2016 school year.

17. Ms. Singh interviewed Student's teacher, Sarah Winding. Ms. Winding also completed a teacher interview form on October 20, 2016. Student was reported to be an excellent reader, met writing standards, and excelled in math. However, there was some indication that Student struggled socially with peers, and was having difficulty making friends. However, this school year Student was eating lunch at his class's table, rather than going to the office to eat lunch.

18. It was clear that Student related well with adults. All of the assessors, including Ms. Singh, found him to be personable, funny, and engaged during the testing sessions. There were times, however, during the testing, when Student became anxious, in part because he is a self-professed perfectionist, but also because he wanted to finish everything. Some of the subtests had problems that became progressively more difficult as they were designed for older children.

19. Ms. Singh observed Student in the classroom one day for 20 to 30 minutes. Student was on task doing classwork, and volunteered to answer questions.

When it came time to work with a partner, Student was cooperative and seemed to enjoy it. Student did not stand out in this classroom of typically developing peers during this observation.

Cognitive Testing

20. Cognitive testing was conducted to determine Student's intellectual development, using the Wechsler Intelligence Scale for Children, Fifth Edition. This test instrument scores children in the domains of Verbal Comprehension, Visual Spatial, Fluid Reasoning, Working Memory, and Processing Speed. Each domain score is based on the scoring of two subtests in that domain. Standard scores of 90 to 109 are in the average range for each domain. The maximum standard score achievable is 160 and the minimum standard score is 40. The Wechsler also contains additional subtests which can be used when there is a question about the child's scores in a domain and more detailed information is required.

21. Domain scores are combined and determine the subject's full-scale intelligence quotient. If there is a significant disparity between domain scores, a general ability score can be calculated which takes into account the fact that low scores in one or more domains may result in a less accurate full-scale intelligence quotient. The full-scale intelligence quotient and general ability scores are a measure of a child's cognitive development.

22. Ms. Singh administered only the standard subtests in each domain as Student's scores, with one exception, Processing Speed, were in the average to high average range. His score in Verbal Comprehension was 113, Visual Spatial was 119, Fluid Reasoning was 109, and Working Memory was 110. However, Student's standard score on Processing Speed was 89. Ms. Singh did not administer other subtests from the Wechsler to gain further information about this much lower standard score.

23. Using tables provided by the test publisher, Ms. Singh found that Student's full-scale intelligence quotient was 112, and his general ability index was 117. Both of these scores are in the high average range for cognitive ability.

24. The Wechsler was administered to Student in English, his native language. It is not racially, culturally or sexually discriminatory, and is standardized and norm-referenced. It is used to measure a child's cognitive ability, and is considered to be valid and reliable for this purpose, and there was no evidence that it was not administered in accordance with the instructions.

Testing for Processing Deficits

25. Ms. Singh administered several tests to determine Student's psychomotor functioning. To assess visual processing and visual motor integration she used the Developmental Test of Visual-Motor Integration. All three subtests that compose this instrument were administered, and Student's standard scores ranged from 106 to 111, which is in the average range, with Student's percentile ranking for each subtest between the 58th and 68th percentile. This test did not reveal any visual processing deficits or motor deficits.

26. Ms. Singh also administered the Test of Auditory-Processing Skills, Third Edition, to determine whether Student had any deficits in auditory processing. A standard score between 85 and 115 is in the average range. On the Phonological Index, Student's standard score was 104. On the Memory Index his score was 99, and on the Cohesion Index it was 108. All of his subtest results were scaled scores with the average range between 7 and 13. Student's subtest scaled scores ranged from 8 to 14, resulting in an overall standard score of 102. This test did not reveal any auditory processing deficits.

27. The Visual-Motor test, and the Auditory-Processing test were administered in English. These tests are not racially, culturally or sexually discriminatory, and are

standardized and norm-referenced. They are considered to be valid and reliable for the purposes for which they were used, and there was no evidence that they were not administered in accordance with the instructions.

Memory

28. The Wide Range Assessment of Memory and Learning, Second Edition, was used to determine whether Student had memory deficits which might interfere with learning. Student's standard scores were in the average range 97 to 102 in all areas tested which were Verbal Memory, Visual Memory, Attention/Concentration, and General Memory. The Wide Range Assessment was administered in English, and is not racially, culturally or sexually discriminatory, and is standardized and norm-referenced. It is considered to be valid and reliable for the purpose for which it was used, and there was no evidence that it was not administered in accordance with the instructions.

Social/Emotional

29. Ms. Singh used the Behavior Assessment System for Children, Second Edition to assess Student's social/emotional functioning. The third edition of the Behavior Assessment was recently issued. However, at the time Ms. Singh was assessing Student the second edition was still considered valid.

30. The Behavior Assessment consists of questionnaires that are given to parents, teachers, and sometimes the child. The teacher's questionnaire contains 139 statements such as "Has trouble getting information when needed" or "Cries easily." The order of statements is not tied to any particular topic. In other words, statements concerning study habits, for example, are not grouped together. The parent version consists of 160 statements, many of which are also contained in the teacher's version, and also are randomly ordered. Although the section of the psychological assessment report authored by Ms. Singh concerning the Behavior Assessment stated that Student

was given the Self-Report questionnaire, Student's ratings were not discussed in the report, and there was no evidence that Student was given this questionnaire.

31. The person completing the questionnaire must respond by circling one of the four letters next to each statement. N is circled if the child never does this, S is circled if the behavior happens sometimes, O is circled if the behavior is demonstrated often, and A is circled if the behavior almost always occurs. When the questionnaire is scored by the psychologist, several domains of behavior are measured. If the responses result in a domain being "Clinically Significant" this suggests a high level of maladjustment and is the highest scoring range for the instrument. Scores in the "At Risk" range indicate the possibility of a significant problem that should be monitored. "Average" means the subject's behavior in this domain is typical.

32. The questionnaires given to Mother and Ms. Winding were in English, and there was no evidence that this was not their primary language. The Behavior Assessment is not racially, culturally or sexually discriminatory, and is standardized and norm-referenced. It is considered to be valid and reliable for the purpose for which it was used, and there was no evidence that it was not administered in accordance with the instructions.

33. The Behavioral Symptoms Index summarizes scores given by the raters in the Composites of Externalizing Problems, Internalizing Problems, and School Problems (a Composite that is only part of the teacher questionnaire). Both Mother and Ms. Winding rated Student as in the Clinically Significant range for the Behavioral Symptoms Index.

34. In the Externalizing Problems Composite, both Mother and Ms. Winding rated Student as in the Clinically Significant range on the Clinical Scales that measured Hyperactivity, Anxiety, Depression and Attention Problems. Both Mother and Ms. Winding rated Student as in the average range for Aggression and Conduct Problems.

35. In the Internalizing Problems Composite, both Mother and Ms. Winding rated Student in the Clinically Significant range. This Composite is comprised of the Clinical Scales for Anxiety, Depression, and Somatization. Both Mother and Ms. Winding rated Student in Clinically Significant range for both Anxiety and Depression. Mother rated Student in the Clinically Significant range for Somatization, while Ms. Winding rated him in the Average range for this scale. Students who have high scores in this Composite may have problems with peer relationships.

36. Ms. Winding rated Student in the At Risk range in the Learning Problems Composite. This domain is not part of the parent questionnaire.

37. The Behavioral Assessment also contains Adaptive Scales. In the area of Adaptability Mother rated Student as At Risk, while Ms. Winding rated him in the Clinically Significant range. In the area of Social Skills, Mother rated Student in the Average range, and Ms. Winding rated him in the At Risk range. Both Mother and Ms. Winding rated Student in the Average range for Leadership. Only the parent questionnaire rates Activities of Daily Living, and Mother rated Student in the Clinically Significant range. Only the teacher's questionnaire rates Study Skills, and Ms. Winding found Student in the Average range. Finally, in the area of Functional Communication, Mother rated Student in the At Risk range, and Ms. Winding rated him in the Average range.

38. The large number of At Risk and Clinically Significant ratings by both Mother and Ms. Winding for the Clinical Scales that comprise the Behavioral Symptoms Index should have alerted Ms. Singh that Student might have significant emotional issues which needed to be looked at more closely, possibly using other assessment tools, and possibly having Student complete the Self-Report of the Behavior Assessment. And although Student scored somewhat better on the domains comprising the Adaptive Scales, there were still a few Clinically Significant and At Risk scores.

However, Ms. Singh focused only on the fact that Student, notwithstanding these concerning ratings, was doing well in school academically.

39. Ms. Singh also gleaned concerning information from Ms. Winding's teacher's report that Student had difficulty with peer relations, staying on task, and "yelling out" in class. On the health and development form, Mother indicated that Student had behavior problems of hyperactivity, easily upset, stubborn, moody, short attention span, and low self-esteem. She also reported that Student was immature and irresponsible, had poor eating habits, nervous tics, anxiety, was easily hurt, and tended to misinterpret the actions of others.

40. Ms. Singh conducted an informal interview of Student in which she asked him to respond to 10 questions such as "What makes you happy" and "Do you have friends at school?" She also asked him to complete 14 sentences such as "My biggest problem is" Student's responses to the 10 questions and 14 sentence completions indicated that school was not enjoyable, and he had poor self-esteem. For example, he responded to the question "What makes you worry?" by stating "About grades—good grades." He completed sentence beginning with "My biggest problem" by responding that he "ha[s] lots of problems."

41. A written assessment report must determine whether the child may be eligible for special education by meeting the criteria of eligibility categories that might be indicated by the assessment results. Ms. Singh included the definitions of specific learning disability and other health impairment in her report as those were possible categories she believed the IEP team might find Student eligible for special education.⁴ However, she failed to do an analysis using the testing results to render an opinion as to

⁴ Children with attention deficit hyperactivity disorder may meet the criteria for special education under the category of other health impairment.

whether Student might meet the criteria for eligibility under either of these categories. When she testified she explained that she had heard Parents were “contentious,” and she did not want them accusing Castro Valley personnel of predetermining the IEP before the meeting had even occurred.

42. Ms. Singh did not include a definition of emotional disturbance in her report, or do an analysis of whether Student might meet the criteria for emotional disturbance, despite the many ratings of At Risk and Clinically Significant for various Clinical Scales of the Behavior Assessment from Mother and Ms. Winding. She did not believe this was warranted because she believed that Student was performing well in the classroom, meeting or exceeding grade level standards, and thus she believed that, to the extent he needed services to address his social/emotional behavior, this could be accomplished through a 504 plan.

ACADEMIC ASSESSMENT

43. Ms. Martin has been with Castro Valley for three years and is a special education teacher. She has a provisional special education credential, mild to moderate, as well as a multi-subject teaching credential. She should be receiving her master’s degree in special education in June 2017, and anticipates completing the necessary work for a clear credential in a few months. Ms. Martin’s provisional special education credential allows her to conduct academic testing, and she has been trained to do so. She has conducted more than 30 such assessments.

44. Ms. Martin reviewed Student’s cumulative file. She used the Woodcock-Johnson IV Tests of Academic Achievement to determine Student’s level of academic achievement. The Woodcock-Johnson is not racially, culturally or sexually discriminatory, and is standardized and norm-referenced. It is considered to be valid and reliable for the purpose for which it was used. Ms. Martin administered the test according to instructions.

45. The Woodcock-Johnson tests students in the areas of reading, math and written expression. Multiple subtests are conducted in each area. The standard scoring system is used. Scores between 80 to 89 are in the Low Average range. Scores between 90 to 110 is the Average range. Scores between 111 to 120 are in the High Average range. Scores between 121 to 130 are in the Superior range, and Scores from 131 to above are in the Very Superior range.

46. Student worked very hard in the sessions. His perfectionism led to him perseverating on responding to every question correctly on untimed tests. At times he became anxious, especially on timed tests, or as questions on a test became more difficult. Sometimes he engaged in negative self-talk, or exhibited frustration by leaning on his elbows, putting his hands to the sides of his face, and tapping his temples with his fingers. Because she knew that Student did have issues with anxiety, Ms. Martin allowed Student to decide which area would be tested during their next session. This did not invalidate the results she obtained in testing Student. Written Expression was his least favorite area, but he did well when he was tested in this area.

47. Math is one of Student's best subjects. However, when administered the subtests of Calculation and Math Fact Fluency to determine his abilities in Math Calculation, Student obtained a score of 84 in Calculation, and 83 in Math Fact Fluency. These are both timed tests. However, Student's overall score in Math Problem Solving was 131, because his score on the Applied Problems subtest was 135, and his score on the Number Matrices subtest was 120. These subtests are untimed.

48. Ms. Martin was very surprised at Student's scores in Math Calculation. She did not have any other standardized test instruments that measured academic achievement that she could use to determine whether the Math Calculation scores on the Woodcock-Johnson were a valid representation of Student's abilities in this area. Therefore, she obtained math work samples from Ms. Winding, and talked to her in

depth about Student's math skills. On a later date Ms. Martin informally tested Student using problems from the Woodcock-Johnson that he had not attempted or had answered incorrectly in the Math Fact Fluency and Calculation subtests, as well as some problems copied from the work samples. Student answered all correctly. The original scores on the Math Calculation portion of the Woodcock-Johnson were recorded by Ms. Martin and were part of her report. However, based on her informal testing, Ms. Marten correctly determined that they were not an accurate representation of Student's math calculation skills.

49. Student's scores on the subtests that comprise the Written Expression portion of the Woodcock-Johnson were 94 on the Sentence Writing Fluency subtest, and 102 on the Writing Samples subtest. His Written Expression score was 99, well within the average range.

50. Student loves to read. His score on the Basic Reading Skills test was 124, based on subtest scores of 133 on the Word Attack subtest, and 116 on the Letter-Word Identification subtest. Student's score on the Reading Comprehension test was 114, based on a Subtest Score in Passage Comprehension of 105, a subtest score of 115 in Reading Recall, and a subtest score of 117 on the Reading Vocabulary subtest. Student's lowest reading score was 99 on the Reading Fluency test, based on a subtest score of 92 on the Sentence Reading Fluency subtest, and a subtest score of 118 on the Oral Reading subtest. As might be expected, the Sentence Reading Fluency subtest is a timed test, which explains the much lower score in this constellation of tests.

51. On one of the writing subtests, Writing Samples, Student became very agitated and discouraged after two sentence prompts. As previously noted, Student does not like writing. Ms. Martin realized she would not obtain accurate results as a result of his agitation and terminated the testing, postponing it to another day. The scores on those two sentences were not calculated, and Student did well on that subtest

when retested. He was not given, nor scored on the two prompt sentences from the first testing session. Student did not present any evidence that this violated testing protocols for the Woodcock-Johnson.

52. On another day, when administering a writing subtest, Ms. Martin Student was voicing what he wanted to write, and Ms. Martin told him he could do this, in part because Student was so discouraged and negative. There was no evidence that this violated the instructions for the Woodcock-Johnson.⁵

53. Ms. Martin's written assessment report described Student's demeanor and behavior during testing in great detail, reporting physical manifestations of anxiety such as negative self-talk, drumming his fingers on his temples when frustrated (which she described as hitting his head), etc. The report described in detail each subtest administered, and how Student reacted during the testing. All of the formal testing scores were reported. Based on Student's scores and her observations and interactions with Student as a part of her testing, Ms. Martin had no concerns about Student's academic abilities in the areas of Written Expression, Math and Reading.

SPEECH AND LANGUAGE ASSESSMENT

54. Ms. Tam conducted a speech and language assessment of Student and wrote a report. Ms. Tam has her bachelor's and master's degrees in communicative disorders. She has been a speech language pathologist for 20 years, the past 16 years with Castro Valley, and two years before that in a Walnut Creek school district. She has

⁵ During the October 27, 2016 IEP team meeting Ms. Martin stated that this "broke protocols." However, during her testimony she stated that this "coaching" did not violate the instructions for the Woodcock-Johnson, and she was credible in this regard.

always worked part time for Castro Valley. Ms. Tam is a member of the American Speech-Language Hearing Association.

55. Ms. Tam was not acquainted with Student before she began her testing. Ms. Tam's report stated that it was based on a review of records, a speech and language evaluation, clinical observation, progress review, and teacher/parent feedback. Ms. Tam did not review Student's cumulative file or the health and development form Parents completed. She was unaware that there was a possibility Student might have Tourette syndrome until Parents mentioned it at the October 2016 IEP team meeting. Ms. Tam was not aware that Student had been placed on a 504 plan for the previous two school years, and that these plans addressed, in part, problems with peer relationships and social interactions. She had never been approached by school personnel in the past to address Student's possible social skills deficits that the 504 teams discussed when they formulated his 504 plans.

56. Ms. Tam spoke to Ms. Winding, but there was no evidence that this was an interview as a part of her assessment process, and she did not see Ms. Winding's written report until after she had written her own report. Ms. Tam did not review the reports of Ms. Singh and Ms. Martin until the IEP team meeting on October 27, 2016. When she testified she remembered being told that Student had an anxiety disorder, but when she conducted her testing, she was unaware that attention deficit hyperactivity disorder was a concern, as was the possibility of Tourette syndrome. She did not know why speech and language was one of the areas the assessment plan called for to be assessed and she never asked.

57. At the time she conducted her assessment of Student, Ms. Tam's only knowledge of Tourette syndrome was acquired when she was still in school, and she admitted during her testimony that she did not know of any assessment tools that might be used when assessing a child diagnosed with Tourette syndrome. In fact, she

did not know, when she testified, if speech and language therapy could even address Tourette syndrome manifestations.

58. Ms. Tam informally assessed whether Student had issues with articulation, voice, and fluency, by using her professional skills and training when she listened to him during the assessment process. Ms. Tam found that Student had no speech deficits, and there was no evidence to contradict this.

59. Ms. Tam formally assessed Student's speech and language skills by administering the Comprehensive Assessment of Spoken Language. She administered the Comprehensive Assessment over several sessions. She administered it in English, Student's primary language. The Comprehensive Assessment is not racially, culturally or sexually discriminatory, and is standardized and norm-referenced. It is considered to be valid and reliable for the purpose for which it was used, and it was administered according to the instructions.

60. The Comprehensive Assessment consists of several basic subtests in five basic areas of language: Antonyms, Syntax Construction, Paragraph Construction, Nonliteral Language and Pragmatic Judgment. Antonyms measures word knowledge and vocabulary. Syntax Construction measures the ability to generate understandable and grammatically correct sentences, and Paragraph Comprehension measures comprehension of syntax in spoken language. Nonliteral Language measures the ability to understand the intended meaning of language when the actual meaning is not what has been literally expressed, such as sarcasm or figurative speech. Pragmatic Judgment measures the ability of the subject to understand the appropriateness of language as used in a specific environment. These last two areas may reveal language-based social skills deficits.

61. Standard scores of 85 to 115 on the Comprehensive Assessment are in the average range. Student's standard scores were as follows: Antonyms, 105; Syntax

Construction, 137; Paragraph Comprehension, 114; Nonliteral Language 109; and Pragmatic Judgement 108. All of these scores were in the average or above average range. Based on these scores, Ms. Tam decided that there was no need to administer any of the other 15 more specific subtests that are contained in the Comprehensive Assessment. They are used when more specific information about possible speech and language deficits is determined to be necessary.

62. Ms. Tam's report contained an analysis of whether Student met the criteria for speech and language impairment. She found that he did not.

LEGAL CONCLUSIONS

INTRODUCTION: LEGAL FRAMEWORK UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT⁶

1. This hearing was held under the IDEA, its regulations, and California statutes and regulations intended to implement it. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 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 free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, 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. 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

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

identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents. (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, 163 L.Ed.2d 387]; see 20 U.S.C. § 1415(i)(2)(C)(iii) [standard of review for IDEA administrative hearing decision is preponderance of the evidence].) Because Castro Valley filed the request for due process hearing, it had the burden of proving the essential elements of its claim.

3. The educational benefit to be provided to a child requiring special education is not limited to addressing the child's academic needs, but also social and emotional needs that affect academic progress, school behavior, and socialization. (*County of San Diego v. California Special Educ. Hearing Office* (9th Cir. 1996) 93 F.3d 1458, 1467)[citing the district court, "Because [Student] required mental health counseling to accomplish her IEP goals, the Hearing Officer correctly measured the effectiveness of [the placement's] counseling in determining the appropriateness of the ... program as a whole."].)

INDEPENDENT EDUCATIONAL EVALUATION

4. Under certain conditions, a student is entitled to obtain an independent educational evaluation at public expense. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502 (a)(1); Ed. Code, § 56329, subd. (b) [incorporating 34 C.F.R. § 300.502 by reference]; Ed. Code, § 56506, subd. (c) [parent has the right to an independent educational evaluation as set forth in Ed. Code, § 56329].) To obtain an independent educational evaluation, the student must disagree with an evaluation obtained by the public agency and request an independent educational evaluation. (34 C.F.R. § 300.502(b)(1).)

5. When a student requests an independent educational evaluation, the public agency must, without unnecessary delay, either file a request for due process hearing to show that its assessment is appropriate, or ensure that an independent educational evaluation is provided at public expense. (34 C.F.R. § 300.502(b)(2); Ed. Code, § 56329, subd. (c).)

GENERAL REQUIREMENTS FOR ASSESSMENTS

6. Before any action is taken with respect to the initial placement of a special education student, an assessment of the student's educational needs shall be conducted. (34 C.F.R. § 300.301(a); Ed. Code, § 56320.)⁷ No single procedure may be used as the sole criterion for determining whether the student has a disability or determining an appropriate educational program for the student. (20 U.S.C. § 1414(b)(2)(B); Ed. Code, § 56320, subd. (e).)

7. A district must ensure that a child is assessed in all areas related to a suspected disability. (20 U.S.C. § 1414(b)(3)(B); Ed. Code § 56320, subd. (f).) 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), 56322; see 20 U.S.C. § 1414(b)(3)(A)(iv).)

8. Tests and assessment materials must be selected and administered so as not to be racially, culturally or sexually discriminatory; and must be provided and administered in the student's primary language or other mode of communication unless this is clearly not feasible. (20 U.S.C. § 1414(a)(3)(A)(i)-(iii); Ed. Code, § 56320, subd. (a).)

⁷ An assessment under California law is equivalent to an evaluation under Federal law. (Ed. Code, § 56303.)

9. The assessment must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the child is classified. (34 C.F.R. § 300.304(c)(6).)

SELECTION OF ASSESSMENT INSTRUMENTS

10. A district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining whether he is eligible for special education, and what the content of his program should be. (20 U.S.C. § 1414(b)(2)(A); 34 C.F.R. § 300.304(b)(1).) An assessment tool must "provide relevant information that directly assists persons in determining the educational needs of the child." (34 C.F.R. § 300.304(c)(7).)

11. In selecting assessment tools, the assessor must do more than pick a generally valid instrument. Tests and other assessment materials must be used "for purposes for which the assessments or measures are valid and reliable." (20 U.S.C. § 1414(a)(3)(A)(iii); Ed. Code, § 56320, subd. (b)(2).) Assessment tools must be "tailored to assess specific areas of educational need . . ." (Ed. Code, § 56320, subd. (c).) "Special attention shall be given to the [child's] unique educational needs . . ." (*Id.*, subd. (g).)

12. Assessors must use "technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors." (20 U.S.C. § 1414(b)(2)(C); 34 C.F.R. § 300.304 (b)(3).) 'Technically sound instruments' generally refers to assessments that have been shown through research to be valid and reliable." (Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46642 (Aug.14, 2006).)

REQUIREMENT OF OBSERVATION

13. A district must ensure that the child is observed in his learning environment (including the regular classroom setting) to document his academic performance and behavior in the areas of difficulty. (34 C.F.R. § 300.310(a).)

ASSISTANCE TO IEP TEAM AND PARENTS

14. It is the duty of the IEP team, not the assessor, to determine whether a student is eligible for special education and related services. (20 U.S.C. § 1414(b)(4)(A); 34 C.F.R. §§ 300.305(a)(iii)(A); 300.306(a)(1). However, in order to aid the IEP team in determining eligibility, an assessor must produce a written report of each assessment that includes information about whether the student may need special education and related services, and the basis for making that determination. (Ed. Code, § 56327, subds. (a), (b).) The report must be given to the parent or guardian, though that duty has no fixed time limit. (Ed. Code, § 56329, subd. (c).) Normally, an assessment must be completed within 60 days of the receipt of parental consent for it. (34 C.F.R. § 300.301(c)(1)(i), (ii); see Educ. Code, § 56302.1(a).)

15. Assessments are required to determine eligibility for special education, and what type, frequency and duration of specialized instruction and related services are required. In evaluating a child for special education eligibility and prior to the development of an IEP, a district must assess him in all areas related to a suspected disability. (20 U.S.C. § 1414(b)(3)(B); Ed. Code, § 56320, subd. (f).) A school district's failure to conduct appropriate assessments or to assess in all areas of suspected disability may constitute a procedural denial of a FAPE. (*Park v. Anaheim Union High School Dist., et al.* (9th Cir. 2006) 464 F.3d 1025, 1031-1033.)

TIMELINESS OF ASSESSMENTS, IEP TEAM MEETINGS, THE REQUEST FOR DUE PROCESS, AND OTHER CONSIDERATIONS

16. Castro Valley was timely in responding to Parents' request for assessment, and the assessments were conducted and reviewed within the legally required time period of 60 days after Parents signed consent to the assessment plan. Parents were provided with drafts of the three assessment reports a few days before the IEP team meeting of October 27, 2016. Castro Valley also timely filed its request for due process after Parents requested independent educational evaluations on January 20, 2017.

17. Castro Valley stressed the fact that the three assessments needed to be considered as together as a single multi-disciplinary assessment. Some school districts have a single assessment report that contains the results of testing done in all areas called for in the assessment plan and refer to it as a multi-disciplinary assessment. Other school districts, like Castro Valley, have separate reports. Castro Valley cannot have it both ways here. If the reports must be considered together as one assessment, then the flaws in just one part would require an independent educational evaluation at public expense of all areas that were assessed. Castro Valley treated these assessments as separate. Each assessor prepared a separate report, and there was no collaboration between the assessors when testing was conducted. Therefore, the assessments are separate and will be considered as such in this Decision.

ISSUE 1: PSYCHOEDUCATIONAL ASSESSMENT

18. Castro Valley claims the psychoeducational assessment met all legal requirements in terms of how the assessment was conducted and the appropriateness of the testing instruments that were utilized. Castro Valley also argues that when an assessment is not legally compliant it is a procedural error, and since Student was not found eligible for special education, he is not entitled to relief. However, if this was true, an independent educational evaluation could only be ordered when Parents disagreed

with a district assessment, but their child had still been found eligible. Thus Parents of a child found ineligible for special education would be denied an independent educational evaluation at public expense, even if the district's evaluation was not legally compliant. Castro Valley provided no authority for this contention. Although both parties have some discussion in their closing arguments about whether or not Student meets the eligibility requirements for special education, this is not an issue in this case, and will not be decided.

19. Student claims the psychoeducational assessment did not meet all legal requirements for the following reasons: 1) Ms. Singh should have used the general ability index to measure Student's cognition; 2) Ms. Singh did not reference the academic assessment and analyze Student's eligibility under the specific learning disability category; 3) Ms. Singh did not use the most recent version of the Behavior Assessment; 4) despite the high number of Clinically Significant and At Risk scores of Mother and Ms. Winding in responding to the Behavior Assessment questions, Ms. Singh failed to include an analysis of Student's eligibility under the category of emotional disturbance; and 5) Ms. Singh improperly gave great weight to Student's ability to meet grade level standards with the assistance of a 504 plan, thereby reasoning that he did not qualify for special education.⁸

20. The Wechsler was an appropriate assessment tool for Ms. Singh to use to assess Student's cognition. It is not discriminatory and it was administered according to

⁸ Student also claims that Castro Valley should have conducted a health assessment due to Student's vision issues and indications that he had Tourette syndrome, and was medicated for attention deficit hyperactivity disorder. However, this is not an issue in this Castro Valley-filed matter, and no findings are made in this regard.

instructions. Contrary to Student's claim, Ms. Singh reported both Student's full-scale intelligence quotient and his general ability index score, and took both into consideration in determining his cognitive strengths and weaknesses. Likewise, the tests used to assess whether Student had processing deficits and memory issues were appropriate as administered, were not discriminatory, and were administered according to instructions, and Student does not dispute these tests.

21. Although Student complains that Ms. Singh's use of an earlier edition of the Behavior Assessment invalidates her assessment, Ms. Singh credibly established that the edition she used was still permitted and had not been invalidated by the test publisher since the new edition had been issued so recently. However, the results of the Behavior Assessment showed that there were serious concerns raised about Student from both Mother and his teacher in the area of social/ emotional needs.

22. Ms. Singh claimed that it was not necessary to conduct additional testing in this area or to address any of the clinically significant or at risk results of the testing she completed because Student was doing well academically and did not appear to be having social/emotional needs based on her 30-minute classroom observation, her conversation with Ms. Winding, and her interview of Student. However, special education is not limited to just providing services to students who struggle academically; it may also be necessary to address social/emotional needs. Student's responses to the informal interview conducted by Ms. Singh with questions and sentence completion tasks demonstrated that school was not a happy place for Student. Previous report card comments, the social skills strategies in the 504 plans and even the form completed by Ms. Winding, as well as other information she provided to Ms. Singh, required consideration in the assessment. However, Ms. Singh discounted this information in both her report and her testimony.

23. Ms. Singh's assessment report also did not meet legal requirements because she did not analyze whether Student met the criteria for eligibility under the categories of specific learning disability, other health impairment, and/or emotional disturbance. Her testimony that this was a decision for the IEP team to make, and she was wary of being found to predetermine Student's eligibility, does not excuse her failure to have this analysis in her report. The plain language of Education Code, § 56327, subdivisions (a) and (b) makes it clear that this information must be included in the written report. Based on all of the above, Student is entitled to an independent educational evaluation in the area of psychology.

ISSUE 2: ACADEMIC ASSESSMENT

24. Castro Valley claims its academic assessment meets all legal requirements. Student claims it does not for the following reasons: 1) Ms. Martin may not be qualified; 2) she allowed Student to choose in advance the areas in which he was to be tested; 3) she terminated testing before finishing, and then permitted Student to retake the test; 4) she allowed Student to take breaks during testing; and 5) she improperly coached Student during the writing test. It should be noted that the test instructions were not introduced into evidence, nor did Student present any testimony to contradict that of Ms. Martin who administered the academic testing.

25. The Woodcock-Johnson is a standardized, norm-referenced assessment tool that is used to measure the academic achievement of students. It is not discriminatory, and was used by Ms. Martin to determine the level of Student's academic achievement. It was administered in accordance with the instructions, and in English.

26. Ms. Martin was a very credible witness. She listened carefully to the questions she was asked and answered them thoughtfully. Her demeanor can best be described as guileless. She testified that she was qualified to administer the Woodcock-Johnson as a resource specialist teacher, and there was no evidence to the contrary.

Resource teachers have special education credentials, and often administer the Woodcock-Johnson and are qualified to do so.

27. Ms. Martin did permit Student to choose the area in which he would be tested next at the end of each session. She did this because she was aware of Student's high level of anxiety, and believed that if Student knew the area in which he was to be tested in advance, this would decrease his anxiety. There was no evidence that allowing Student to choose the area in which he would be tested next violated the test publisher's instructions.

28. In regards to Student's claim in his closing argument that Ms. Martin allowed Student to complete test questions, then terminated testing, and then retested him is a gross misstatement of Ms. Martin's very credible testimony. On the Writing Sample subtest Student became so agitated Ms. Martin terminated the test after a short period of time. She administered the test on a different day, eliminating the two prompt sentences previously given, and did not score them. Student presented no evidence that this violated the test publisher's instructions.

29. It is unclear in Student's closing argument, but there is a possibility that this claim instead refers to Ms. Martin's informal testing of Student in the area of Math Calculation. Ms. Martin made it very clear that her informal testing was not designed to replace the Woodcock-Johnson formal testing in this area. Rather it was designed to determine whether the Woodcock-Johnson test results in this area were an accurate reflection of Student's abilities in this area. Student presented no evidence that Ms. Johnson's subsequent interview of Ms. Winding, and obtaining work samples, invalidated the administration of the Woodcock-Johnson. Nor did the subsequent informal retesting of Student using questions from the work samples and missed questions from the Woodcock-Johnson subtest do so. Ms. Martin used this method to explore the surprisingly low scores Student obtained on the timed testing, and since she

had no other academic testing tools available to her, this was a creative way to determine whether the Woodcock-Johnson scores of 83 and 84 on the Math Calculation subtests were an anomaly, or were an accurate reflection of Student's math calculation skills. Again, Student presented no evidence to contradict Ms. Martin's credible testimony that this did not violate the test publisher's instructions. Ms. Martin still reported the scores Student received in Math Calculation on the Woodcock-Johnson.

30. In regards to Student's claims that Ms. Martin allowed Student frequent breaks during the testing, there was no evidence that this occurred during timed testing (which would have violated testing protocols), and no evidence that giving short breaks during untimed testing violated the test publisher's instructions.

31. Student's claim that Ms. Martin improperly coached Student during the testing refers to her suggestion to him during a writing subtest to voice out loud what he might write. Again, there was no evidence that this violated the test publisher's instructions.

32. Ms. Martin's report was detailed and thorough, not only reporting Student's test results, but also describing in detail his demeanor and attitude in testing. Some of the details concerning Student's test demeanor corroborated some of the information in Ms. Singh's report about Student's negative attitudes toward school and anxiety.

33. Ms. Martin's academic assessment met all legal requirements. Student is not entitled to an independent educational evaluation at Castro Valley's expense in the area of academic testing.

SPEECH AND LANGUAGE ASSESSMENT

34. District argues that Ms. Tam's assessment was legally compliant. Student claims that Ms. Tam's assessment did not meet legal requirements because she did not know Student had been diagnosed with Tourette syndrome, she had no training in that

area, she did not review his records or observe him anywhere outside of her testing sessions, and she only utilized one testing instrument, the Comprehensive Assessment.

35. As previously discussed, a student must be assessed in all areas of suspected disability. Ms. Tam did not have complete information concerning Student including the fact that Parents had asked for the speech and language assessment because they believed he had Tourette syndrome. She admitted that she had little or no specialized knowledge about what testing she should have conducted had she known this. Student is entitled to an independent educational evaluation that includes an assessment of his needs due to a possible diagnosis of Tourette syndrome. However, there was no evidence that this is an area a speech and language pathologist is qualified to assess. Therefore, Student is entitled to an independent educational evaluation to determine whether Student has educational needs related to Tourette syndrome by a qualified assessor, which may include a speech and language pathologist.

36. Ms. Tam also did not know that Student had a section 504 plan which included strategies to address problems with peer relationships. This was because there was little or no communication among the assessors, and Ms. Tam did not review Student's cumulative file and the health and development report completed by Parents. She did not conduct any further assessment of possible social skills deficits since Student scored in the average range on the Comprehensive Assessment in the social pragmatics domain. She relied on this one test result to come to her conclusion that Student had no needs in this area. She did not observe Student or conduct any testing in the area of social skills, other than administering a single standardized test, the Comprehensive Assessment of Spoken Language. The results of this one test were inconsistent with other available information about Student, including his 504 plans. The

speech and language assessment should have considered Student's reported social skills deficits when reaching the conclusions in the report.

37. A school district assessing a child must conduct an observation of the child, but this is not a requirement that each assessor must conduct a separate observation. However, if a district only chooses to have one person observe a Student, information regarding the observation must be shared with all other assessors prior to the issuance of the reports, so the observation results can be considered. This is especially important if an assessor did not know the child before the assessment. Further, there was no evidence that when the school psychologist observed Student, she did so looking specifically for issues that might affect the speech and language assessment.

38. Ms. Tam's assessment was flawed because she did not observe Student, and did not review his school records and the health and development form completed by Parents, or discuss with Ms. Singh, who did observe Student, the results of that observation. The lack of communication among the three assessors resulted in Ms. Tam not thoroughly assessing Student in the area of social skills, instead relying only on the results of the Comprehensive Assessment. As a result, the speech and language assessment did not meet all legal requirements, and Student is entitled to an independent educational evaluation in the area of speech and language.

39. If a speech and language pathologist is not qualified to assess Student's needs related to a possible diagnosis of Tourette syndrome, Student is also entitled to an independent educational evaluation by an expert qualified to assess in this area.

ORDER

1. Castro Valley's psychological assessment does not meet all legal requirements. Therefore Castro Valley shall fund an independent educational assessment in the area of psychoeducation with an emphasis on Student's

social/emotional functioning, and any other areas the independent assessor deems necessary. Castro Valley shall also fund the assessor's attendance at an IEP meeting to discuss the assessment. Castro Valley shall contract with a qualified assessor of Parent's choice who meets Castro Valley's requirements without delay. If Parents wish Castro Valley to consider the results of the independent educational evaluation, an IEP meeting shall be convened no later than 30 days after the date the assessment report is served on Castro Valley.

2. Castro Valley's speech and language assessment does not meet all legal requirements. Therefore Castro Valley shall fund an independent educational assessment in the area of speech and language with an emphasis on Student's social functioning, and any other areas the independent assessor deems necessary, including but not limited to determining any needs Student may have due to Tourette syndrome. If a speech and language pathologist does not have the qualifications to determine Student's needs due to Tourette syndrome, a third independent educational evaluation at Castro Valley's expense is also ordered. Castro Valley shall also fund the assessor/s' attendance at an IEP meeting to discuss the assessment/s. Castro Valley shall contract with a qualified assessor or assessors of Parent's choice who meet Castro Valley's requirements without delay. If Parents wish Castro Valley to consider the results of the independent educational evaluation/s, an IEP meeting shall be convened no later than 30 days after the date the assessment report is served on Castro Valley.

PREVAILING PARTY

Pursuant to California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided. District prevailed on Issue 2. Student prevailed on Issues 1 and 3.

RIGHT TO APPEAL

This Decision is the final administrative determination and is binding on all parties. (Ed. Code, § 56505, subd. (h).) Any party has the right to appeal this Decision to a court of competent jurisdiction within 90 days of receiving it. (Ed. Code, § 56505, subd. (k).)

DATED: May 4, 2017

_____/s/_____

REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings