

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Eligibility of:

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2016020358

DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California (OAH), heard this matter in San Bernardino, California, on March 16, 2016.

Eric Loftman, claimant's attorney, represented claimant, who was not present at the fair hearing.

Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs, represented the Inland Regional Center (IRC).

The matter was submitted on March 16, 2016.

ISSUE

Is claimant eligible for regional center services under the Lanterman Act as a result of a diagnosis of intellectual disability?

FACTUAL FINDINGS

JURISDICTIONAL MATTERS

1. On November 12, 2015, IRC notified claimant that he was not eligible for regional center services.
2. On February 3, 2016, Mr. Loftman, claimant's attorney filed a fair hearing request appealing that decision and this hearing ensued.
3. Prior to the start of the hearing, Mr. Loftman requested a continuance on the grounds that Mr. Messner,¹ an attorney in his office who specializes in developmental disability cases, was scheduled to represent claimant at this proceeding but had taken ill. Ms. Pierce objected to the request. Claimant's request was denied. The fair hearing request identified Mr. Loftman as the authorized representative. Although Mr. Messner had appeared at the informal meeting on February 11, 2016, the letter IRC sent after that meeting, the notice of hearing, and the exhibit packet were all served on Mr. Loftman. There was no evidence presented that IRC was aware that claimant had selected an alternative authorized representative. Further, while the State Council may appoint an authorized representative to assist claimants in regional center cases (Welfare and Institutions Code section 4541, subdivision (a)(1)), no evidence was presented that Mr. Loftman was not able to do so, especially given the notice of representation identifying him as the attorney of record. As such, claimant's request lacked good cause for a continuance. (See *Boror v. Department of Investment* (1971) 15 Cal.App.3d 531, holding that there is no right to counsel in administrative hearings.)

DIAGNOSTIC CRITERIA FOR INTELLECTUAL DISABILITY

4. The American Psychiatric Association's *Diagnostic and Statistical Manual of*

¹ Mr. Messner's first name was not provided.

Mental Disorders, Fifth Edition, (DSM-5), identifies the diagnostic criteria used for intellectual disability. Three diagnostic criteria must be met: deficits in intellectual functions, deficits in adaptive functioning, and the onset of these deficits during the developmental period. An individual must have a *DSM-5* diagnosis of intellectual disability to qualify for regional center services. Intellectual functioning is typically measured using intelligence tests. Individuals with intellectual disability typically have IQ scores in the 65-75 range.

5. Claimant is a 26-year-old male. Claimant is currently incarcerated. He asserted he was eligible for regional center services on the basis of intellectual disability.

Individualized Education Plans

6. A May 4, 2009, Individualized Education Plan (IEP) performed by claimant's school district when he was in the twelfth grade, identified his primary disability as specific learning disability. The IEP noted that claimant's disability affected his involvement and progress in the general classroom setting, because his "discrepancy between ability and achievement requires special education services to assess the core curriculum." It was noted that claimant's "adaptive behavior skills are his area of personal strength." The IEP contained test score results in the low average to average range. In the pre-academic/academic/functional skills portion of the IEP, it was noted that claimant "has very weak academic skills in reading, math, and written language. His English vocabulary and his auditory memory for meaningful information were weak. Relative strengths were in "random auditory memory and visual problem-solving." The communication development section noted that claimant was "apprehensive but can verbally communicate ideas." His vocabulary scores fell within the deficient range. His social communication was in the low average range. His gross motor skills were in the average range, his fine motor skills were in the upper borderline range, and he participated in regular physical education.

Claimant's social emotional/behavioral was "somewhat introverted but otherwise

well-adjusted.” His scores were average in all areas. The pre-vocational/vocational skills section noted that claimant “reported he enjoys drawing and wood shop. He plans to work as a mechanic with his uncle in the future.” The self-help portion of the IEP noted that claimant’s adaptive behavior scores were within the low average to average range. The areas to be addressed indicated that claimant needed goals in reading, writing and math and that an attendance goal would be appropriate to encourage him to improve his attendance. The IEP noted that claimant’s behavior impeded learning as his “academics may be impacted by weak attendance, procrastination in doing his work, and daydreaming.”

The goals outlined in the IEP noted that claimant’s areas of need were life skills because he will need to learn appropriate recreation and leisure skills away from, and separate from, school based activities and that he would benefit from continued practice with making change and money management skills. The transition area of need noted that claimant was quiet and indecisive and would benefit by making more complex and meaningful personal decisions. The supplementary services he would receive were extra time test taking, specialized academic instruction in the classroom, and job coaching. All of his core academic instruction was to take place in the special day class setting because “there is a discrepancy between ability and achievement and identified processing deficits which makes the additional support special education classes necessary.” Sixty-seven percent of claimant’s time was spent outside of the regular education environment.

Claimant could use “continued assistance in preparing to enter the work world, and could be assisted by a mentor or job coach.” The IEP noted that none of the secondary and post-secondary education goals had been met and claimant would enroll in classes required to meet his goals, including study skills training, self-advocacy training, research resources to locate programs, training for domestic, voting, consumer issues, finances and legal affairs, and other supports. Claimant was “unable to decide what will happen after

graduating” and the school would provide opportunities to explore social and recreational interests through his school and community.

7. The April 23, 2008, IEP was similar to the one performed in 2009, except that the goals in 2008 noted that the areas of need were mathematics, reading, writing, and transition. Goals to address these areas of need were basic mathematics skills, including budgeting, making change and financial advice; work on fluency skills and comprehension of vocabulary; continued development of cohesive, coherent and logical sentences and paragraphs; and developing vocational skills. Claimant could be greatly assisted by the help of a mentor.

8. The April 30, 2007, IEP was similar to the 2009 and 2008 IEPs. The areas of need were identified as English language, mathematics, reading, and writing. The supplementary services claimant would receive were SDC-mild/moderate in public integrated facility. (No evidence was offered explaining this service.) The IEP noted that claimant continued to qualify for special education services due to a significant discrepancy between ability and achievement in reading and math with processing deficits in auditory processing. Claimant’s attendance was not of concern.

9. The May 31, 2006, IEP was similar to the ones noted above. The areas of need were mathematics, reading and writing.

10. The May 1, 2006, IEP was similar to the ones listed above. Claimant required extensive assistance with decoding while reading. He could express his ideas but needed assistance with spelling, grammar and punctuation. Claimant’s math showed “accuracy in addition and some subtraction.” He was somewhat introverted but otherwise well-adjusted. He could take care of his daily needs. His areas of needs were mathematics, reading and writing. Claimant was new to the high school and attendance was not a problem. His records from his other school had not yet been provided so were unavailable for review.

Psychoeducational Assessments

11. A May 26, 2009, multidisciplinary assessment report contained the psychoeducational assessment review. Claimant's eligibility was identified as a specific learning disability due to his severe discrepancy between ability and achievement as a result of sensory motor and cognitive abilities. The educational history section noted that claimant's attendance was poor.

Various tests were administered to claimant. The Wechsler Abbreviated Scale of Intelligence had a verbal score 60, a performance score of 75, and a full scale score of 65. The Woodcock Johnson test had scores in the below average to low ranges. The Wechsler Individual Achievement test had scores in the low ranges. CST scores were far below basic, below basic, and basic. On the test of auditory perceptual skills, claimant received below-average, low average and low scores. On a test for visual motor integration, claimant scored below average. Claimant's scores on the Brief Index of Adaptive Behavior ranged between 88 and 100. Claimant's cognitive problems/inattention test results were identified as a "clinically significant score."

The summary of assessment results noted that claimant's overall functioning in cognitive ability was in the below average range with a significant discrepancy between verbal and nonverbal/spatial ability. Several perceptual assessments had been previously completed and indicated that claimant continued to have processing issues in auditory processing and cognitive abilities. His gross motor skills were in the average range. His achievement tests indicated that there was a discrepancy between his estimated cognitive ability and his academic achievement in reading, writing and math. His adaptive behavior functioning was within normal limits. His independent functioning, socialization, and communication skill levels were age appropriate. Claimant had no significant emotional, behavioral or related academic issues and did not meet the criteria for emotional disturbance. He was eligible for special education services under the eligibility rating of

specific learning disability. Claimant continued to meet the eligibility for special education services.

12. The May 30, 2006, psychoeducational assessment noted that claimant has had poor attendance and had been receiving special education services. He was observed to have low language skills. His withdrawal from peer interactions will impede his social maturity. He had a short attention span and was easily distracted. He had normal impulsivity but gave up easily, procrastinated and was a dependent learner. His organizational skills were good but he needed repetition in order to follow directions properly. His poor attendance, distractibility and procrastination might impact his academic success. Various tests were administered. On the Wechsler Abbreviated Scale of Intelligence claimant received a verbal score of 60, a performance score of 75 and a full scale score of 65. On the Woodcock Johnson test claimant had one score, writing samples, at the 56 percentile; all other scores ranged between the nine and .1 percentile. On the Brief Index of Adaptive Behavior test, claimant's scores ranged between 88 and 100. There were no significant scores on the behavior assessment scale for children. There was a significant score reported for cognitive problems/inattention. The examiner noted that during testing claimant was cooperative and attempted all tasks requested. He maintained good eye contact and appeared to be confident in his own work. Claimant used adequate speech, articulate language and gave direct responses. He conversed appropriately with the examiner, demonstrating an average reaction time and using a direct approach to problem solving.

In the summary section the examiner noted that claimant's overall functioning in cognitive ability fell within the developmentally delayed range. However, as there was a significant difference between his verbal and nonverbal scores, it was believed that his true ability fell more within the borderline range. Several assessments were given to determine if claimant had processing issues and he seemed to have weaknesses in auditory short

term memory and visual problem-solving skills with scores within the borderline range. His oral expression score was within the deficient range and he had some difficulty retrieving information. His vocabulary skills were within the deficient range. However, he was able to express his thoughts, feelings and ideas in writing at an average level and his speech was intelligible. Academic assessments indicated there were weaknesses in reading, writing and math. Adaptive behavior surveys and observations indicated that claimant's adaptive behavior was in the average range. The examiner concluded that claimant was eligible for special education services due to his specific learning disability.

Psychological Evaluations

13. On May 1, 2015, William Soltz, Ph.D., interviewed claimant pursuant to a San Bernardino County Court order due to claimant's arrest and incarceration. Dr. Soltz authored a report noting that claimant was cooperative but was a "submaximal historian, likely due to borderline intelligence." Claimant was unsophisticated and Dr. Soltz had to repeat himself and provide simple explanations to help claimant comprehend the questions. Claimant acknowledged remorse for his actions and claimed he was "a totally changed person due to going to church." Claimant did not know the criminal charges against him but understood "sort of" what he was accused of doing. Claimant seemed focused on the idea of "winning" when discussing his case but "it was difficult to understand what he meant." It was clear during the interview process that claimant "had a comprehension issue" and obtaining his social history was confusing. Claimant lived with friends, received public support, spent time at his church, mowed grass, attended Bible study, and worked with a friend at a local store. He had never been arrested or had any legal issues the past.

Dr. Soltz noted that claimant mumbled and was hard to hear. He had difficulty with articulation and was not conversational. He "definitely has problems with understanding and comprehending due to the special education background." Claimant had "no idea

how to answer two simple judgmental questions.” He understood simple questions and answered them adequately. Claimant “gets confused easily because of lack of comprehension, low IQ.” Claimant appeared to have borderline intelligence. He had been in special classes all his school life, but had no history of psychiatric or mental disorders requiring treatment. There was no evidence of a psychiatric disorder but claimant “likely has borderline intellectual functioning.” He appeared to have a learning disability but Dr. Soltz did “not believe [claimant] is developmentally disabled.”

Claimant expressed remorse for his actions. His understanding of the criminal charges against him was rather minimal. He understood the nature of the criminal proceedings although he was not sophisticated in the nomenclature. He would assist his counsel in as rational a manner as he could but had “no interest whatsoever in preparing his own defense.” Dr. Soltz concluded that claimant “should be identified as competent under 1368 of the Penal Code. He is not sophisticated but is cooperative and will be able to provide the necessary information regarding offense, although he is reluctant to admit it for a number of reasons mostly associated with shame and remorse.”

14. On July 14, 2015, Scott F. Grover, Ph.D., performed a psychological evaluation pursuant to a San Bernardino County Superior Court order to determine whether claimant was “presently competent to proceed with the court proceedings.” Dr. Grover authored a report, noting that claimant seemed confused at first and did not seem to appreciate that the visit was related to evaluating his competency to stand trial. Dr. Grover obtained a history and reviewed available legal and medical records. Claimant reported a history of head trauma wherein he received a concussion from running into a pole when he was drinking. He lost consciousness for an unknown period. He reported that this was the first time he had ever been in trouble. Claimant reported alcohol use in his teenage years and a history of family alcoholism. Dr. Grover noted that claimant exhibited poor to fair judgment. He performed at a low level during cognitive tasks, demonstrating

likely difficulty with verbal reasoning and difficulty with abstract thinking.

Claimant was confused when questioned about the nature of the proceedings against him and his rights as a defendant. Despite some elaboration on the concepts, he was unable to grasp them which appeared related to his seemingly low IQ and limited cognitive abilities. Claimant was not aware of any of the criminal charges that he was facing and was unable to give a general overview of them in his own words. He did not seem to appreciate the adversarial process or the role of the court officers. When asked about his defenses, claimant replied that he would return to Mexico if "they let me go." Claimant was unable to understand how this information was unlikely to assist him in his defense. Dr. Grover opined that claimant did not appear mentally competent to assist his counsel preparing a defense. He did not appear to possess the cognitive capacities necessary to assist his counsel. Claimant was unable to consider complicated information related to his case and was largely unable to make informed decisions given his cognitive deficits.

Dr. Grover concluded that claimant was incompetent to stand trial opining that claimant had a deficit in his ability to understand the nature and purpose of the proceedings against him. Due to his seemingly low IQ and limited cognitive capacities, he was unable to fully cooperate and assist counsel in his own defense. Dr. Grover recommended treatment at a state psychiatric facility to restore his competency and highly recommended a neuropsychological evaluation to determine claimant's intelligence level, cognitive capacities, and abilities to comprehend and retain legal concepts. Dr. Grover opined that claimant's incompetence to stand trial was related to developmental disability. He diagnosed claimant as "other specified neurodevelopmental disorder," opining that once objective intelligence testing was given it "was likely" claimant would meet the criteria for intellectual disability but this "diagnosis was not given . . . due to the need for confirmation from objective testing."

15. On July 28, 2015, Seaira D. Reedy, Psy.D., performed a placement evaluation for the San Bernardino County Superior Court. Dr. Reedy noted that claimant had been found incompetent to stand trial pursuant to Penal Code 1368. Dr. Reedy opined that because claimant "has been found to be a risk to the victim's and the community's safety, it has been determined that he cannot be safely and effectively treated in the community at this time." Dr. Reedy recommended referral to a state hospital for claimant "to receive competency training in a locked forensic setting that has the necessary psychiatric interventions to restore him to competency while also providing the high level of structure and support he requires."

16. October 23, 2015, Michael McCormick, Psy.D., performed a psychological evaluation pursuant to a referral by IRC to determine if he was eligible for regional center services. Dr. McCormick authored a report, reviewed claimant's history and administered testing. He noted that claimant reported two significant head injuries; one when he was young and was hit on the eye with a pole, and another when he was hit in the head while working with his father in Mexico. Claimant reported that he did not lose consciousness on either occasion. (This contradicted his prior statement to Dr. Grover that he did lose consciousness.) Claimant has had multiple jobs in the past, working for different employers for a few weeks to several months.

On the test to determine memory impairment and motivation, claimant's responses indicated that he was not giving his best effort, requiring the test results to be reviewed with caution. On the Wechsler Adult Intelligence scale test, a test measuring overall cognitive ability, claimant received a full scale IQ score of 61, a score in the extremely low range. Dr. McCormick opined that this indicated that claimant had significant issues in many areas of cognitive ability. Claimant appeared to be giving a better effort during that test. On the Verbal Comprehension Index, a test measuring the ability to conceptualize and use verbal information, claimant scored in the extremely low range, indicating he had

major difficulties expressing himself verbally and suggesting he had limited general knowledge. On the Working Memory Index, a test to measure the ability to attend, process, and respond to verbal stimuli, claimant scored a 69, the extremely low range, indicating he had significant problems performing mental manipulations in his head. On the Perceptual Reasoning Index, a test measuring the ability to integrate and solve nonverbal information, claimant scored 69, an extreme low range score. Claimant struggled to pay attention to details of integrating parts into a cohesive whole and appeared to have difficulty manipulating visual stimuli in his head to complete a given task. Claimant scored 59 on the Processing Speed Index, a test measuring mental and motor speed while completing nonverbal tasks. This score was within the extremely low range indicating he had significant difficulties learning unfamiliar visual tasks and processing visual information during a timed task.

Claimant received a general adaptive composite score of 90 on the Adaptive Behavior Assessment System, an average range score. This test measures adaptive functioning skills. Claimant's score indicated that he did not have any struggles completing his activities of daily living. There were clinically significant discrepancies between his scores, suggesting that his general adaptive composite was likely not an accurate reflection of his adaptive functioning ability and Dr. McCormick opined that "one must look at each index score separately" in order to determine claimant's true abilities. On the conceptual composite test, which measures communication, functional academic, and self-direction skills, claimant received a score of 80, the low range, suggesting he had mild problems in areas of adaptive behavior. However, there was significant variance between the subtests, suggesting the score was not an accurate reflection of his true ability. On the social composite test, which measures an individual's leisure and social activities, claimant scored 103, an average range score, indicating he "does have any"²

² It was unclear if the word "not" was supposed to be between the words "does" and

problems in these areas of adaptive behavior. However, there was significant variance in the subtests, suggesting the score was also not an accurate reflection of claimant's true ability. On the practical composite test, which measures an individual's community use, home living, health and safety, and self-care skills, claimant received a score of 93, an average range score, indicating he did not have any overall problems in these areas of adaptive behavior. However, there was significant variance between the subtests, suggesting the score was not an accurate reflection of his true ability.

Dr. McCormick diagnosed claimant with borderline intellectual functioning. He concluded that claimant did not have a diagnosis of a developmental disability. Dr. McCormick noted:

At a glance, [claimant's] cognitive scores suggest that he would meet the criteria for an intellectual disability, mild. There were a couple of reasons, why [claimant] did not qualify for this diagnosis. First, there were no school records to confirm his school difficulties and whether he met those requirements prior to age 18. Secondly, [claimant] did not have significant problems in his adaptive functioning, which is a requirement for a diagnosis of intellectual disability and fifth category diagnosis.

Other Documents

17. The San Bernardino County Sheriff's Department supplemental report summarized the deputy's interview with claimant and contained the handwritten apology letter claimant wrote to the victim. The report was considered pursuant to *Lake v. Reed*

"have."

(1997) 16 Cal.4th 448, 461. The letter illustrated claimant's low skill levels.

WITNESS TESTIMONY

18. Sandra Brooks, Ph.D., an IRC staff psychologist, testified in this proceeding. Her curriculum vitae outlined her educational and professional history. Dr. Brooks testified about her review of claimant's records and her determination that claimant did not have a qualifying developmental disability. In her opinion, claimant's cognitive testing did not demonstrate that he had an intellectual disability or that he had a "substantial disability" as that term is defined by the Lanterman Act and applicable regulations. While Dr. Brooks acknowledged that claimant had some impairments, and that some of his records suggested he "may have" impairments in the required areas, those impairments did not rise to the level required for regional center eligibility. Moreover, claimant's school records repeatedly identified adaptive functioning as one of his strengths.

Based upon the questions posed to her on direct examination, Dr. Brooks's testimony offered little to explain how IRC made its determination regarding claimant's eligibility. Her testimony given during cross examination was more informative, but she still did not provide a comprehensive overview of the basis for IRC's position. However, Dr. Brooks's explanation, although brief, was supported by the records.

LEGAL CONCLUSIONS

BURDEN OF PROOF

1. In a proceeding to determine eligibility, the burden of proof is on the claimant to establish he or she meets the proper criteria. The standard is a preponderance of the evidence. (Evid. Code, § 115.)

STATUTORY AUTHORITY

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500

et seq.

3. Welfare and Institutions Code section 4501 states:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

4. Welfare and Institutions Code section 4512, subdivision (a) defines "developmental disability" as follows:

"Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a

substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation,³ cerebral palsy, epilepsy, and autism.

This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

5. California Code of Regulations, title 17, section 54000 provides:

(a) "Developmental Disability" means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality

³ The regulations still use the term mental retardation, not intellectual disability.

disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

(2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.

(3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

6. California Code of Regulations, title 17, section 54001 provides:

(a) 'Substantial disability' means:

(1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:

(A) Receptive and expressive language;

(B) Learning;

(C) Self-care;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

(c) The Regional Center professional group shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

(d) Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

EVALUATION

7. The Lanterman Act and the applicable regulations set forth criteria that a claimant must meet in order to qualify for regional center services. None of the documents introduced in this hearing demonstrated that claimant possesses a diagnosis of intellectual disability. The burden was on claimant to establish his eligibility for regional center services. As claimant introduced insufficient evidence demonstrating that he was eligible to receive regional center services, his appeal of IRC's determination that he is ineligible to receive services must be denied.

ORDER

Claimant's appeal from the Inland Regional Center's determination that he is not eligible for regional center services and supports is denied. Claimant is ineligible for regional center services and supports under the Lanterman Developmental Disabilities Services Act.

DATED: March 24, 2016

_____/s/_____

MARY AGNES MATYSZEWSKI

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within ninety days.